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REPORT OF THE HUMAN RIGHTS COMMITTEE*

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* The present document is a mimeographed version of the twentieth annual report of the Human Rights Committee. The report will be issued subsequently as Official Records of the General Assembly, Fifty-first Session, Supplement No. 40 (A/51/40).

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3. Communications Nos. 422-424/1990, Aduayom et al. v. Togo (Views adopted on 12 July 1996, fifty-seventh session)

4. Communication No. 434/1990; Lal Seerattan v. Trinidad and Tobago (Views adopted on 26 October 1995, fifty-fifth session)

5. Communication No. 454/1991; Enrique García Pons v. Spain (Views adopted on 30 October 1995, fifty-fifth session)

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* To be issued subsequently in _Official Records of the General Assembly, Fifty-first Session, Supplement No. 40_ (A/51/40), vol. II.

I. ORGANIZATIONAL AND OTHER MATTERS

A. States parties to the Covenant

1. As at 26 July 1996, the closing date of the fifty-seventh session of the Human Rights Committee, 134 States had ratified or acceded or succeeded to the International Covenant on Civil and Political Rights and 88 States had ratified or acceded to the Optional Protocol to the Covenant. Both instruments were adopted by the General Assembly in resolution 2200 A (XXI) of 16 December 1966 and opened for signature and ratification in New York on 19 December 1966. They entered into force on 23 March 1976, in accordance with the provisions of their articles 49 and 9, respectively. Also, as at 26 July 1996, 45 States had made the declaration envisaged under article 41, paragraph 1, of the Covenant, which came into force on 28 March 1979.

2. The Second Optional Protocol, aiming at the abolition of the death penalty, which was adopted and opened for signature, ratification or accession by the General Assembly in resolution 44/128 of 15 December 1989, entered into force on 11 July 1991, in accordance with the provisions of its article 8. As at 26 July 1996, there were 29 States parties to the Second Optional Protocol.

3. A list of States parties to the Covenant and to the Optional Protocols, indicating those which have made the declaration under article 41, paragraph 1, of the Covenant, is contained in annex I to the present report.

4. Reservations and other declarations made by a number of States parties in respect of the Covenant and/or the Optional Protocols are set out in document CCPR/C/2/Rev.4 and in the notifications deposited with the Secretary-General. In a note dated 16 October 1995, the Swiss Government notified the Secretary-General of the withdrawal of its reservation concerning article 20, paragraph 2, of the Covenant.

B. Sessions

5. The Human Rights Committee has held three sessions since the adoption of its previous annual report. The fifty-fifth session (1445th to 1473rd meetings) was held at the United Nations Office at Geneva from 16 October to 3 November 1995, the fifty-sixth session (1474th to 1501st meetings) at United Nations Headquarters from 18 March to 4 April 1996, and the fifty-seventh session (1502nd to 1530th meetings) at the United Nations Office at Geneva from 8 to 26 July 1996.

C. Election, membership and attendance

6. In a letter dated 28 July 1995, the Chairman informed the Secretary-General of the resignation of Mrs. Rosalyn Higgins with effect from 29 July 1996. Mrs. Higgins' mandate was due to expire on 31 December 1996. At its 1444th meeting (fifty-fourth session), held on 28 July 1995, the Committee expressed its warmest gratitude to Mrs. Higgins for her outstanding contribution to the Committee's work under article 40 of the Covenant and also under the Optional Protocol.

7. At the fifteenth meeting of States parties to the Covenant, held at United Nations Headquarters on 16 January 1996, Lord Colville (United Kingdom of Great

Britain and Northern Ireland) was elected to the seat left vacant following the resignation of Judge Higgins. A list of the members of the Committee and its officers appears in annex II to the present report.

8. All the members of the Committee participated in the fifty-fifth session. Mr. Ando and Mr. Kretzmer attended only part of the fifty-sixth session.

D. Solemn declaration

9. At the 1474th meeting of the Committee (fifty-sixth session) Lord Colville, who had been elected at the fifteenth meeting of States parties to the Covenant, made a solemn declaration in accordance with article 38 of the Covenant before assuming his functions.

E. Working groups

10. In accordance with rules 62 and 89 of its rules of procedure, the Committee established working groups which were to meet before its fifty-fifth, fifty-sixth and fifty-seventh sessions.

11. The working group established under rule 89 was entrusted with the task of making recommendations to the Committee regarding communications received under the Optional Protocol. At the fifty-fifth session, the Working Group was composed of Mr. Bán, Mr. Bhagwati, Mr. Buergenthal, Mrs. Evatt and Mr. Mavrommatis. It met at the United Nations Office at Geneva from 9 to 13 October 1995 and elected Mrs. Evatt as its Chairperson/Rapporteur. At the fifty-sixth session, the Working Group was composed of Mr. Kretzmer, Mr. Lallah, Mrs. Medina Quiroga, Mr. Mavrommatis and Mr. Prado Vallejo. It met at United Nations Headquarters from 11 to 15 March 1996 and elected Mr. Mavrommatis as its Chairperson/Rapporteur. At the fifty-seventh session, the Working Group was composed of Mr. Bán, Mr. Bhagwati, Mr. Bruni Celli, Mr. Pocar and Mr. Prado Vallejo. It met at the United Nations Office at Geneva from 1 to 5 July 1996 and elected Mr. Pocar as its Chairperson/Rapporteur.

12. The working group established under rule 62 was mandated to prepare concise lists of issues concerning the initial and second, third and fourth periodic reports to be considered by the Committee. It was also mandated to study the Committee's working methods and systematically held discussions with representatives of the specialized agencies and subsidiary bodies, particularly the International Labour Office, the Office of the United Nations High Commissioner for Refugees, the World Health Organization and United Nations Educational, Scientific and Cultural Organization, in order to obtain advance information on the reports to be considered by the Committee. To that same end, the Working Group, which met before the fifty-seventh session, met representatives of non-governmental organizations (Amnesty International, International Association against Torture, International Commission of Jurists, International Federation of Human Rights, World Organization against Torture and International Service for Human Rights) to consider various methods of cooperation. At the fifty-fifth session, the Working Group was composed of Mr. Aguilar Urbina, Mr. Bán, Mrs. Evatt and Mr. Francis; it met at the United Nations Office at Geneva from 9 to 13 October 1995 and elected Mr. Aguilar Urbina as its Chairperson/Rapporteur. At the fifty-sixth session, it was composed of Mr. Ando, Mr. Bruni Celli, Mrs. Chanet and Mr. El Shafei; it met at United Nations Headquarters from 11 to 15 March 1996 and elected Mr. Ando as its Chairperson/Rapporteur. At the fifty-seventh session, the Working Group

was composed of Mr. Aguilar Urbina, Mrs. Evatt, Mr. Kretzmer and Mr. Francis; it met at the United Nations Office at Geneva from 1 to 5 July 1996 and elected Mrs. Evatt as its Chairperson/Rapporteur.

F. Other matters

1. Fifty-fifth session

13. The High Commissioner for Human Rights informed the Committee of the financial difficulties with which the United Nations was faced, and the repercussions that they would inevitably have on the Committee's work, particularly in regard to the translation, reproduction and distribution of documents. He referred to the Fourth World Conference on Women, held at Beijing (China) from 4 to 15 September 1995, and reaffirmed the priority that he accorded to the full and complete realization, without discrimination, of the fundamental rights of women, and to their integration in the principal activities of the United Nations system. He then presented the results of the sixth meeting of persons chairing the treaty bodies, which was held in September 1995, and also those of the recent sessions of the Committee on the Rights of the Child and the Committee on the Elimination of Racial Discrimination.

2. Fifty-sixth session

14. The Committee was informed by the representative of the Secretary-General of the recent activities of the General Assembly in regard to human rights, particularly its resolutions 50/170 and 50/171 concerning the International Covenants on Human Rights and the effective implementation of international instruments on human rights. The members were also informed of the activities of the Committee on Economic, Social and Cultural Rights, the Committee against Torture, the Committee on the Rights of the Child and the Committee on the Elimination of Discrimination against Women. Lastly, the representative of the Secretary-General emphasized the financial difficulties that the Organization was still encountering, and their impact on the Committee's work.

3. Fifty-seventh session

15. The High Commissioner for Human Rights gave some general information on plans for the reorganization of the Centre for Human Rights. He emphasized the consequences of the financial crisis for the work of the Committee. In addition, he reported on the activities of the Commission on Human Rights at its fifty-sixth session and mentioned the invitation extended to the Committee in resolution 1996/22 to consider whether single comprehensive reports should be submitted.

16. The Committee authorized its representative at the seventh meeting of chairpersons of treaty bodies, to be held in September 1996, to point out that its own guidelines relating to the consideration of reports had been prepared in conformity with the requirements of article 40, paragraph 1, of the Covenant and that, in consequence, it was neither legally justifiable nor advisable to revise the procedure for submitting reports to the Committee.

17. The Committee addressed its sincere thanks to Mr. Jakob Möller, Chief of the Communications Branch, upon his retirement, for the activities he had undertaken throughout his career to assist the Committee.

G. Staff resources

18. The greater complexity and more intensive pace of the Committee's operations resulting from the increased number of States parties to the Covenant and the changes in the Committee's methods of work have added significantly to the workload of the secretariat in providing substantive servicing to the Committee in relation to the monitoring of State party reports. The number of communications submitted to the Committee under the Optional Protocol has also grown. The Committee expressed the hope that, within the framework of the forthcoming restructuring, the specialized staff assigned to service the Committee in relation both to the monitoring of State party reports and to the consideration of communications submitted under the Optional Protocol would be increased.

H. Publicity for the work of the Committee

19. The Chairman, accompanied by several of the Committee's officers and the Special Rapporteur on the follow-up of communications, gave press conferences at each of the Committee's three sessions. The Committee expressed the wish that the information services should be associated more closely with its work so as to give it greater publicity. The Committee noted with satisfaction the great interest in its work taken by the non-governmental organizations and thanked them for the information provided.

I. Documents and publications relating to the work of the Committee

20. At the 1513th meeting (fifty-seventh session) of the Committee, the Chief of the Conference Service informed the Committee of the difficulties encountered in the translation and reproduction of documents, and in particular reports submitted by States parties. He drew attention to the relevant guidelines and resolutions on the question and stressed the specific difficulties encountered in connection with voluminous reports. He also mentioned the high cost of summary records.

21. The Committee expressed its willingness to consider any measure intended to reduce costs provided that the quality of its work and State party obligations under article 40 of the Covenant were not jeopardized.

22. The Committee noted that 20 volumes of the Official Documents of the Human Rights Committee had been published in English covering the period 1977/78 to 1990/91, and that the donation from the Sasakawa Foundation had made it possible to reduce the backlog. It expressed the hope that that process would continue until the backlog had been eliminated and that the Yearbook would in future be published regularly and without delay. It also stressed that the delay in publishing the French version should be eliminated as soon as possible.

23. Bearing in mind existing resources, the Committee stated that priority should be given to the translation of its summary records.

24. The Committee again urged that the work of publishing volume III of the selection of decisions adopted under the Optional Protocol should be speeded up so as to eliminate the backlog as soon as possible. In future, the selected decisions should be published regularly and in good time.

J. Adoption of the report

25. At its 1529th and 1530th meetings, held on 25 and 26 July 1996, the Committee considered the draft of its twentieth annual report, covering its activities at the fifty-fifth, fifty-sixth and fifty-seventh sessions, held in 1995 and 1996. The report, as amended in the course of the discussion, was adopted unanimously.

II. METHODS OF WORK OF THE COMMITTEE UNDER ARTICLE 40 OF THE COVENANT: OVERVIEW OF PRESENT WORKING METHODS

26. This section of the Committee's report aims at providing a concise and up-to-date overview of the modifications recently introduced by the Committee in its working methods under article 40 of the Covenant and is particularly designed to make the current procedure more transparent and readily accessible, so as to assist States parties and others interested in the implementation of the Covenant. Discussions were held on these questions at the 1450th and 1458th meetings (fifty-fifth session), as well as at the 1496th, 1500th and 1501st meetings (fifty-sixth session). A detailed account of the methods of work usually applied by the Human Rights Committee for the consideration of reports submitted by States parties appears in the Committee's previous annual report. 1/

27. The Committee generally stressed that methods of work under article 40 of the Covenant should be as flexible as possible to promote a constructive and effective dialogue with delegations with a view to ensuring equality in the treatment of States.

A. Consideration of initial reports and periodic reports

28. The Committee felt that the only way to establish a fruitful dialogue with States parties was to harmonize the procedures followed in the consideration of initial reports and periodic reports. To that end, the Committee began, as of its fifty-sixth session, to prepare lists of issues for the consideration of initial reports. Subsequently, the Committee also decided to change the way meetings are allocated for the consideration of reports by stipulating that three meetings should henceforth be reserved for the consideration of initial reports and two meetings for the consideration of periodic reports.

29. Generally speaking, the questions raised orally during the consideration of reports should be regarded as the direct continuation of the replies (or lack of replies) to the written questions, and not as additional questions. The members are, however, free to ask questions which do not appear on the list of issues, but which they consider particularly important.

30. The Committee also decided that, to the extent possible, the country rapporteurs should be appointed two sessions prior to the session at which the report for which they are responsible is to be considered. As it is difficult for some members to participate in meetings of the Working Group, alternate country rapporteurs may be appointed from among the members of the Working Group. Starting with its fifty-sixth session, the Committee identified the reports to be considered at the next two sessions, it being understood that particular circumstances, relating to emergency procedures, may necessitate changes in the schedule.

B. Overdue reports

31. The Committee again gave in-depth consideration to the problems raised by long delays in the submission of certain reports. It stressed that States parties should not be treated differently, no matter what the situation. It nonetheless noted that 14 States were late in submitting at least two reports and that, of those, 5 were late in submitting at least three reports. It

recalled that, in such cases, States were invited to submit an exhaustive report covering the entire period since the consideration of the preceding report, with a new date being set for preparing the following report, after the consideration of the report.

32. The Committee also decided that, under very exceptional circumstances, when a State's report was overdue because of material difficulties, the Committee could invite it to send a delegation to discuss those difficulties or ask it to submit a provisional report dealing only with certain provisions of the Covenant. The Committee reserved the right to make public a list of States whose reports were overdue during the press conferences convened at the end of each session of the Committee.

C. Follow-up to the Committee's activities under article 40 of the Covenant

33. At its fifty-sixth session, the Committee decided that, henceforth, during each session, the members of the Bureau would observe how the situation with regard to serious violations of human rights had changed in order to determine whether the possibility of adopting a special decision in plenary could be considered. The Bureau was also given particular responsibility for the implementation of the decision taken by the Committee at its fifty-second session that, "where the consideration of a report revealed a grave human rights situation, the Committee could request the State party concerned to receive a mission composed of one or more of its members in order to re-establish dialogue with it, explain the situation better and formulate appropriate suggestions or recommendations".

D. Observations of States parties on the Committee's concluding comments

34. Several communications were received at earlier sessions containing observations by States parties on the Committee's concluding comments. The Committee decided that, henceforth, receipt of those documents would be acknowledged under a different heading in the part of the annual report relating to the submission of reports by States parties, and that those States would be informed that their observations would be given due consideration by the Committee. The Working Group on article 40 would be asked to consider the observations by States and to suggest any possible measures the Committee might wish to take in that regard.

E. Cooperation with other treaty-monitoring bodies

35. At its fifty-sixth and fifty-seventh sessions, the Committee considered various steps intended to intensify cooperation between the Committee and the other existing treaty-monitoring bodies within the United Nations system. It thus decided that members of the Committee would be requested to follow developments in each of those bodies and to report thereon to the Committee at each session. Focal points were therefore designated for the Committee on the Elimination of Discrimination against Women (Mrs. Evatt at the fifty-sixth session); and for the Committee against Torture (Mr. Bhagwati at the fifty-seventh session). The focal point for the Committee on the Elimination of Discrimination against Women reported at the fifty-seventh session on the work of the Committee.

F. Reports submitted by States parties under article 40 of the Covenant

36. The Committee noted that, increasingly, the reports submitted by States parties under article 40 of the Covenant merely reproduced the texts of the laws. The States had the impression that they were thereby complying with the Committee's guidelines calling for a description of the legislative, administrative or other measures in force in regard to each right guaranteed by the Covenant. In that regard, the Committee pointed out that, instead of simply paraphrasing the law, States should focus on its practical application.

III. SUBMISSION OF REPORTS BY STATES PARTIES UNDER ARTICLE 40 OF THE COVENANT

37. Under article 2, paragraph 1, of the International Covenant on Civil and Political Rights, each State party undertakes to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized and enumerated in part III of the Covenant. In connection with this provision, article 40, paragraph 1, of the Covenant requires States parties to submit reports on the measures adopted and the progress achieved in the enjoyment of the various rights, and on any factors and difficulties that may affect the implementation of the Covenant. States parties undertake to submit reports within one year of the entry into force of the Covenant for the State party concerned and thereafter whenever the Committee so requests. In order to assist States parties in submitting reports, the Human Rights Committee approved, at its second session, general guidelines regarding the form and contents of initial reports (see CCPR/C/5/Rev.2).

38. Furthermore, in accordance with article 40, paragraph 1 (b), of the Covenant, at its thirteenth session, the Committee adopted a decision on periodicity requiring States parties to submit subsequent reports to the Committee every five years. 2/ At the same session, the Committee adopted guidelines regarding the form and contents of periodic reports from States parties under article 40, paragraph 1 (b), of the Covenant (see CCPR/C/20/Rev.2).

39. At its thirty-ninth session, the Committee adopted an amendment to its guidelines for the submission of initial and periodic reports relating to reporting by States parties on action taken in response to the issuance by the Committee of views under the Optional Protocol. 3/ At its forty-second session, the Committee revised its general guidelines for the submission of initial and periodic reports to take into account the consolidated guidelines for the initial part of the reports of States parties to be submitted under the various international human rights instruments, including the Covenant (HRI/CORE/1). 4/ In addition, at its fifty-third session, the Committee further amended its guidelines with a request to States to include in their reports information on any factors affecting the equal enjoyment by women of the rights protected under the Covenant.

A. Reports submitted by States parties under article 40 of the Covenant during the period under review

40. During the period covered by the present report, the Committee received 18 initial or periodic reports. Initial reports were submitted by Gabon, Georgia, Lithuania, Nigeria and Slovakia; Bolivia, the Congo and Lebanon submitted their second periodic reports; France and Portugal submitted their third periodic reports; and Germany, Finland, Iraq, Poland, Colombia, Romania and Senegal submitted their fourth periodic reports. The United Kingdom of Great Britain and Northern Ireland submitted a special report in response to a decision taken by the Committee following its consideration of the part of the fourth periodic report relating to Hong Kong (see paras. 49-72).

B. Observations of States parties on the Committee's concluding comments

41. The Committee received a communication from the Government of Sri Lanka, dated 9 August 1995, regarding the consideration of its third periodic report by the Committee in July 1995 (fifty-fourth session). The communication included observations on the comments of the Committee contained in document CCPR/C/79/Add.56. The Government's communication is reproduced in document CCPR/C/116.

C. Special decisions by the Human Rights Committee concerning reports of particular States

42. In view of the particular difficulties encountered by Nigeria in implementing the Covenant, the Chairman of the Committee decided on 29 November 1995 on the basis of rule 66, paragraph 2, of its rules of procedure, after the closure of the fifty-fifth session, to transmit the following special decision to the Government of Nigeria on behalf of the Committee:

Nigeria

> The Human Rights Committee, through its Chairman acting under rule 66, paragraph 2, of the Committee's rules of procedure on behalf and after consultation with the members of the Committee,
>
> Deeply concerned by recent executions after trials that were not in conformity with provisions of the International Covenant on Civil and Political Rights,
>
> Noting that the initial report of Nigeria was due for submission to the Committee on 28 October 1994,
>
> Acting under article 40, paragraph 1 (b), of the International Covenant on Civil and Political Rights:
>
> 1. Requests the Government of Nigeria to submit its initial report without delay for discussion by the Committee at its fifty-sixth session in March/April 1996 and, in any event, to submit by 31 January 1996 a report, in summary form if necessary, relating in particular to the application at the present time of articles 6, 7, 9 and 14 of the Covenant;
>
> 2. Requests the Secretary-General to bring this decision to the attention of the Government of Nigeria.

43. The initial report of Nigeria, submitted on 7 February 1996 following the above decision, was considered at the fifty-sixth and fifty-seventh sessions. 5/

IV. STATES THAT HAVE NOT COMPLIED WITH THEIR OBLIGATIONS UNDER ARTICLE 40

44. States parties to the Covenant must submit the reports referred to in article 40 of the Covenant on time so that the Committee can duly perform its functions under that article. These reports are the basis of the dialogue between the Committee and States parties, and any delay in their submission means an interruption of this process. However, serious delays have been noted since the establishment of the Committee. Reminders were sent on 1 March 1996 to States parties whose reports had not been submitted as scheduled. In addition, at the session of March/April 1996, the members of the Bureau met in New York with the permanent representatives of all States parties whose initial report, periodic report or report under a special decision of the Committee had been overdue for more than three years. Such contacts were made with the permanent representatives of all the States concerned. In addition, during the period covered by the present report, the Committee took other measures to induce States parties effectively to carry out their reporting obligation under article 40 of the Covenant (see paras. 31 and 32 of the report).

45. After reviewing the situation with respect to the late submission both of initial and periodic reports, the Committee noted with regret that 86 States parties to the Covenant, or more than two thirds of all States parties, were in arrears with their reports. The Committee again considered itself duty-bound to express its serious concern about the fact that so many States parties are in default of their obligations under the Covenant. This state of affairs seriously impedes the Committee's ability to monitor the implementation of the Covenant, and it therefore decided to list in the core of its annual report to the General Assembly, as it had already done in its previous annual reports, the States parties that have more than one report overdue, as well as those that have not submitted reports requested by a special decision of the Committee. The Committee wishes to reiterate that these States are in serious default of their obligations under article 40 of the Covenant.

States parties that have at least two reports overdue or that have not submitted a report requested by a special decision of the Committee

State party	Type of report	Date due	Years overdue	Number of reminders sent
Syrian Arab Republic	Second	18 August 1984	12 years	24
	Third	18 August 1989		
	Fourth	18 August 1994		
Gambia	Second	21 June 1985	11 years	22
	Third	21 June 1990		
	Fourth	21 June 1995		
Suriname	Second	2 August 1985	11 years	21
	Third	2 August 1990		
	Fourth	2 August 1995		
Kenya	Second	11 April 1986	10 years	20
	Third	11 April 1991		
	Fourth	11 April 1996		

State party	Type of report	Date due	Years overdue	Number of reminders sent
Mali	Second Third Fourth	11 April 1986 11 April 1991 11 April 1996	10 years	20
Jamaica	Second Third	1 August 1986 1 August 1991	10 years	16
Guyana	Second Third	10 April 1987 10 April 1992	9 years	18
Democratic People's Republic of Korea	Second Third	13 December 1987 13 December 1992	9 years	16
Equatorial Guinea	Initial Second	24 December 1988 24 December 1993	8 years	14
Central African Republic	Second Third	9 April 1989 7 August 1992	7 years	13
Trinidad and Tobago	Third Fourth	20 March 1990 20 March 1995	6 years	12
Saint Vincent and the Grenadines	Second Third	31 October 1991 8 February 1993	5 years	9
Panama	Third Fourth	31 March 1992 6 June 1993	4 years	8
Madagascar	Third Fourth	31 July 1992 3 August 1993	4 years	7
Angola	Special	31 January 1994	2 years	3
Rwanda	Special	31 January 1995	1 year	2

V. CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 40 OF THE COVENANT

46. At its 1314th meeting (fiftieth session), the Committee decided to discontinue its practice of including in its annual report summaries of the consideration of the reports submitted by States parties under article 40 of the Covenant. In accordance with that decision, the annual report shall contain, *inter alia*, the final comments adopted by the Committee at the end of the consideration of States parties' reports. Accordingly, the following paragraphs, arranged on a country-by-country basis in the sequence followed by the Committee in its consideration of the reports, contained the final comments adopted by the Committee with respect to the States parties' reports considered at its fifty-fifth, fifty-sixth and fifty-seventh sessions.

A. United Kingdom of Great Britain and Northern Ireland (Hong Kong)

47. At its 1451st to 1453rd meetings, held on 19 and 20 October 1995, the Human Rights Committee considered the part of the fourth periodic report of the United Kingdom of Great Britain and Northern Ireland relating to Hong Kong (CCPR/C/95/Add.5 and HRI/CORE/1/Add.62), and adopted 6/ the following observations:

1. Introduction

48. The Committee welcomes the presence of a high-level delegation which included several officials of the Hong Kong Government. It expresses its appreciation to the representatives of the State party for the high quality of the report, abundance of additional information and detailed and frank answers provided in response to the oral and written questions posed and comments made by the Committee during its consideration of the report. The Committee notes with satisfaction that such information enabled it to engage in a highly constructive dialogue with the State party.

49. The detailed information submitted by a wide range of non-governmental organizations has greatly assisted the Committee in its understanding of the human rights situation in Hong Kong.

2. Factors relating to reporting obligations under the Covenant

50. The Committee notes that the United Kingdom and China have agreed in the Joint Declaration and Exchange of Memoranda of 19 December 1984 that the provisions of the Covenant as applied to Hong Kong shall remain in force after 1 July 1997. In this connection, the Committee, at its 1453rd meeting on 20 October 1995, made clear its view on future reporting obligations in relation to Hong Kong in a statement made by the Chairperson, which is attached to the present document that, as the reporting obligations under article 40 of the Covenant will continue to apply, the Committee will be competent to receive and consider reports that must be submitted in relation to Hong Kong.

3. Positive aspects

51. The Committee welcomes the initiatives taken by the Government with a view to ensuring the full implementation of the Covenant in Hong Kong, in future as well as at present. In that regard, the Sino-British Joint Declaration on the question of Hong Kong appears to provide a sound legal basis for the continued protection of the rights as specified in the Covenant. The Committee welcomes the enactment of the Bill of Rights Ordinance in June 1991.

52. The Committee takes note with appreciation of the various ordinances that have been reviewed as to their conformity with the Bill of Rights and amended accordingly, and also appreciates the continuing process of reviewing and updating of relevant legislative provisions in that regard.

53. The Committee welcomes efforts being made by the authorities to disseminate information on human rights to members of the judiciary, civil servants, teachers and the public in general, including school-age children.

54. The Committee further welcomes the recent enactment of the Sexual Discrimination Ordinance and the Disability Discrimination Ordinance, the aims of which include the elimination of discrimination against women and disabled persons. It welcomes the oral information provided by the authorities that an Equal Opportunities Commission will be established in the first quarter of 1996 with power to recommend draft laws and draft amendments to these Ordinances.

55. The Committee welcomes the enactment of the Torture Ordinance, which gives domestic effect to part of article 7 of the Covenant.

4. Principal subjects of concern

56. The Committee notes that Section 7 of the Bill of Rights Ordinance provides that "the Ordinance binds only the Government and all public authorities; and any person acting on behalf of the Government or a public authority". The Committee emphasizes in this regard that under the Covenant a State party does not only have an obligation to protect individuals against violations by government officials but also by private parties. It thus notes with deep concern the absence of legislation providing effective protection against violations of Covenant rights by non-governmental actors.

57. The Committee expresses concern over the investigative procedure in respect of alleged human rights violations by the police. It notes that the investigation of such complaints rests within the Police Force itself rather than being carried out in a manner that ensures its independence and credibility. In light of the high proportion of complaints against police officers which are found by the investigating police to be unsubstantiated, the Committee expresses concern about the credibility of the investigation process and takes the view that investigation into complaints of abuse of authority by members of the Police Force must be, and must appear to be, fair and independent and must therefore be entrusted to an independent mechanism. The Committee welcomes the changes made to strengthen the status and authority of the Independent Police Complaints Council but notes that these changes still leave investigations entirely in the hands of the police.

58. The Committee notes with concern that, while the majority of the population is Chinese-speaking, official charge forms and charge sheets as well as court documents are in English only, though efforts are being made to make Chinese versions available.

59. The Committee expresses concern over the situation of women in Hong Kong, particularly the high level of violence and the absence of adequate punitive or remedial measures. It regrets that the Sexual Discrimination Ordinance is not yet in force and that it limits the damages awarded to women who are subject to sexual discrimination and does not give power to direct the reinstatement of women who have lost their jobs due to sexual discrimination. The Committee is also concerned that the Sexual Discrimination Ordinance has significant exemptions and that it is limited in its application to discrimination based on gender and marriage and does not prohibit discrimination on ground of age, family responsibility or sexual preference.

60. The Committee notes with concern that there are as yet no detailed regulations to cover emergencies and that under the Court of Final Appeal Ordinance, the jurisdiction of the Court will not extend to reviewing undefined "acts of state" by the executive. The Committee is concerned that vague terminology such as "acts of state" may be interpreted so as to impose undue

restrictions on the jurisdiction of the Court, including the application of any emergency laws that may be enacted in the future.

61. The Committee also regrets that there is not yet detailed legislation to cover emergencies and that the provision in article 18 of the Basic Law on that subject appears not to correspond with the provisions of article 4 of the Covenant.

62. The Committee expresses concern that the administration of legal aid in Hong Kong is refused in a large number of Bill of Rights cases that are directed against the Government or public officers.

63. While noting with satisfaction the efforts by the Government, in cooperation with the United Nations High Commissioner for Refugees, to care for the needs of the Vietnamese asylum-seekers, the Committee expresses concern that many Vietnamese asylum-seekers are subject to long-term detention and that many are held under deplorable living conditions that raise serious questions under articles 9 and 10 of the Covenant. It is particularly alarmed about the situation of children living in camps who are deprived of enjoyment of rights under the Covenant in practice, given their parents' status as illegal immigrants. The Committee also expresses concern at the conditions under which deportations and removals of non-refugees of Vietnamese origin were carried out in practice.

64. With respect to article 17, the Committee takes note of the Law Reform Commission's review of the Telecommunication Ordinance and the Post Office Ordinance. The Committee notes with concern that these ordinances can be abused to intrude on the privacy of individuals and that their amendment is urgently required.

65. The Committee is aware of the reservation made by the United Kingdom that article 25 does not require establishment of an elected Executive or Legislative Council. It however takes the view that once an elected Legislative Council is established, its election must conform to article 25 of the Covenant. The Committee considers that the electoral system in Hong Kong does not meet the requirements of article 25, as well as articles 2, 3 and 26 of the Covenant. It underscores in particular that only 20 of 60 seats in the Legislative Council are subject to direct popular election and that the concept of functional constituencies, which gives undue weight to the views of the business community, discriminates among voters on the basis of property and functions. This clearly constitutes a violation of articles 2, paragraph 1, 25 (b) and 26. It is also concerned that laws depriving convicted persons of their voting rights for periods of up to 10 years may be a disproportionate restriction of the rights protected by article 25.

5. Suggestions and recommendations

66. The Committee recommends that efforts be accelerated to introduce, as soon as possible, Chinese versions of official charge forms and charge sheets as well as court documents.

67. The Committee recommends that the State party adopt the proposal of the Independent Police Complaints Council to incorporate non-police members in the investigation of all complaints against the police.

68. The Committee recommends that the State party reconsider its decision on the establishment and competence of a Human Rights Commission.

69. The Committee recommends that the deficiencies in the Sexual Discrimination Ordinance be overcome by appropriate amendments and that comprehensive anti-discrimination legislation aiming at eliminating all remaining discrimination prohibited under the Covenant be adopted.

70. The Committee urges the Government to take immediate steps to ensure that living conditions in Vietnamese refugee detention centres be improved. Special attention should be devoted to the situation of children whose rights under the Covenant should be protected. Refugee status of all detainees should be speedily determined with right of judicial review and legal aid. Deportation and removal of non-refugees of Vietnamese origin should be closely monitored to prevent abuse.

71. The Committee recommends that immediate steps be taken to ensure that the electoral system be put in conformity with articles 21, 22 and 25 of the Covenant.

6. Request for a report

72. The Committee requests the Government of the United Kingdom to submit a brief report, by 31 May 1996, on new developments with regard to the enjoyment of human rights in Hong Kong, pursuant to the recommendations contained in these Observations and in the attached Statement by the Chairperson, for consideration by the Committee at its fifty-eighth session, to be held in Geneva from 21 October to 8 November 1996.

Statement by the Chairperson on behalf of the Human Rights Committee relating to the consideration of the part of the fourth periodic report of the United Kingdom relating to Hong Kong 7/

The Human Rights Committee - dealing with cases of dismemberment of States parties to the International Covenant on Civil and Political Rights - has taken the view that human rights treaties devolve with territory, and that States continue to be bound by the obligations under the Covenant entered by the predecessor State. Once the people living in a territory find themselves under the protection of the International Covenant on Civil and Political Rights, such protection cannot be denied to them by virtue of the mere dismemberment of that territory or its coming within the jurisdiction of another State or of more than one State. 8/

However, the existence and contents of the Joint Declaration of the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the People's Republic of China on the Question of Hong Kong make it unnecessary for the Committee to rely solely on the foregoing jurisprudence as far as Hong Kong is concerned. In this regard, the Committee points out that the parties to the Joint Declaration have agreed that all provisions of the Covenant as applied to Hong Kong shall remain in force after 1 July 1997. These provisions include reporting procedures under article 40. As the reporting requirements under article 40 of the International Covenant on Civil and Political Rights will continue to apply, the Human Rights Committee considers that it is competent to receive and review reports that must be submitted in relation to Hong Kong.

Accordingly, the Committee is ready to give effect to the intention of the parties to the Joint Declaration as far as Hong Kong is concerned, and to cooperate fully with the parties to the Joint Declaration to work out the necessary modalities to achieve these objectives.

B. Sweden

73. The Committee considered the fourth periodic report of Sweden (CCPR/C/95/Add.4 and HRI/CORE/1/Add.4) at its 1456th and 1457th meetings, on 23 and 24 October 1995 (see CCPR/C/SR.1456 and 1457) and adopted 9/ the following observations:

1. Introduction

74. The Committee welcomes the detailed report presented by Sweden which contains relevant information about changes and developments that have occurred since the consideration of the third periodic report. The Committee also welcomes the answers to questions raised and concerns expressed during the consideration of that report. It expresses its appreciation for the frank dialogue engaged with a competent delegation and for the comprehensive and thorough answers given orally to the wide range of questions asked by members.

2. Factors and difficulties affecting the implementation of the Covenant

75. The Committee finds that there are no significant factors or difficulties which should prevent the effective implementation of the Covenant in Sweden.

3. Positive aspects

76. The Committee notes with appreciation the high level of achievement of Sweden with regard to the protection of the rights guaranteed in the Covenant.

77. The Committee welcomes the adoption of provisions prohibiting ethnic discrimination in the labour market as well as the additional powers given to the Ombudsman against Ethnic Discrimination by conferring upon him a litigating role in the Labour Court proceedings. It also welcomes the setting up of two parliamentary commissions on migration and immigration policies to identify gaps in legislation and to consider improvements in that regard, as well as the incorporation into the Penal Code of the concept of aggravating circumstances when a crime has had racial, ethnic, religious or other similar motivations.

78. The Committee welcomes the various steps taken by the Government, through legislation, studies, education programmes and integration of gender perspective in all policy areas, with a view to ensuring equality between men and women.

79. The Committee notes with satisfaction the adoption and entry into force on 1 February 1992 of the new Compulsory Mental Care Act and Forensic Mental Care Act, restricting the use of compulsory care.

80. The Committee expresses its appreciation for the creation of the post of the Office of the Children's Ombudsman, and for the provisions introduced in the Penal Code to protect children against sexual abuse, as well as for the monitoring system of intercountry adoption.

81. The Committee welcomes the amendment to the Code on Judicial Procedure, extending judicial review to the restrictions ordered by the public prosecutor to persons deprived of their liberty. The Committee also welcomes the extension

of the right to free legal aid for the victims of crimes of violence and crimes involving infringement of physical integrity.

4. Principal subjects of concern

82. The Committee regrets that the Covenant as such cannot be directly invoked before Swedish courts and administrative authorities.

83. The Committee regrets the decision of the State party not to withdraw any of the reservations it made at the time of the ratification of the Covenant.

84. The Committee notes with concern that there is not yet any mechanism to implement views adopted by the Committee under the Optional Protocol to the Covenant.

85. The Committee notes that there remain areas where women are subject to de facto discrimination, in particular with regard to equality of remuneration. The Committee notes with concern that in certain areas, in particular in public offices, the situation of women with regard to equal remuneration for work of equal value has significantly deteriorated recently.

86. Despite efforts made by the Government to eliminate racial and ethnic discrimination, the Committee expresses its concern about the rise of racism and xenophobia within Swedish society and about the high rate of racist crimes and the increase of racist behaviour among the younger part of the population.

87. The length of detention of illegal immigrants, asylum-seekers and persons ordered to be expelled is a cause of concern for the Committee.

88. The Committee is concerned that the Board of Immigration and the Aliens Appeal Board may in certain cases yield their jurisdiction to the Government resulting in decisions of expulsion or denial of immigration or asylum status without the affected individuals having been given an appropriate hearing. In the Committee's view, this practice may, in certain circumstances, raise questions under article 13 of the Covenant.

89. In the view of the Committee, the amendment to the Code on Judicial Procedures stipulating that in certain cases both the convicted person and the public prosecutor need leave to appeal to the Court against a decision in a criminal case may raise in certain circumstances the question of compatibility with article 14, paragraph 5, of the Covenant.

90. The Committee notes that legislative provisions adopted recently by the Riksdag, and providing for the right for everyone to fish and hunt on public lands may have adverse consequences on the traditional rights of the members of the Sami people.

5. Suggestions and recommendations

91. The Committee recommends that all necessary steps be taken by the Government to give legal effects to the rights enshrined in the Covenant in the domestic legal order.

92. The Committee recommends that measures be taken for the establishment of a mechanism to implement the views adopted by the Committee under the Optional Protocol to the Covenant.

93. The Committee recommends that the reservations made to the Covenant be reviewed with a view to withdrawing them.

94. The Committee encourages the Government to continue its efforts to ensure that the principle of equal pay for equal work is effectively implemented.

95. The Committee strongly urges the Government to take appropriate measures to fight the emergence of racist and xenophobic attitudes among some elements of Swedish society. The Committee particularly stresses the importance, in that regard, of educational campaigns in schools and at all levels of society and of media campaigns aimed at building a society where diverse cultures can coexist in a spirit of harmony and enrich one another.

96. The Committee urges the State party to review its legislation governing asylum-seekers and the expulsion of aliens in order to limit the possibility and extent of detention. The right to have a case reviewed by a competent authority should be available against all decisions of detention, expulsion and refusals of immigration or of asylum.

97. The Committee wishes to receive ample information in the next periodic report of Sweden on the implementation of the legislation on leave to appeal in criminal cases in the light of article 14, paragraph 5, of the Covenant.

98. The Committee recommends that the recognized customary rights of the Sami people be fully protected in the light of article 27 of the Covenant.

C. Estonia

99. The Committee considered the initial report of Estonia (CCPR/C/81/Add.5 and HRI/CORE/1/Add.50) at its 1455th and 1459th meetings, on 23 and 25 October 1995 (see CCPR/C/SR.1455 and 1459) and adopted 10/ the following observations:

1. Introduction

100. The Committee welcomes the initial report of Estonia and expresses its appreciation for the frank and constructive dialogue engaged with the delegation. The Committee however regrets that, although the report provided comprehensive information on prevailing legislation in the field of human rights, no mention was made as to how the Covenant is implemented in practice. The information and the answers given orally by the delegation to the questions raised by members of the Committee somewhat covered those deficiencies, and enabled the Committee to obtain a clearer picture of the situation of human rights in the country.

2. Factors and difficulties affecting the implementation of the Covenant

101. The Committee notes that it is necessary to overcome vestiges of the totalitarian past and that much remains to be done to strengthen democratic institutions and respect for the rule of law. It regrets that the Government's efforts in restructuring the legal system and endeavouring to better implement the Covenant have been hampered by lacunae in some existing legislation, and that a number of principles set forth in the 1992 Constitution were not yet implemented by corresponding laws.

102. The Committee notes that at the time of the restoration of independence, there existed in Estonia a significantly large proportion of permanent residents belonging to minorities. The policy of the Government with regard to naturalization and citizenship has raised a number of difficulties which affect the implementation of the Covenant.

3. Positive aspects

103. The Committee expresses its satisfaction at the fundamental and positive changes which have taken place in Estonia, that provide for a better political, constitutional and legal framework for the implementation of the rights enshrined in the Covenant.

104. Estonia's accession to the Covenant and other human rights instruments, soon after its restoration of independence, confirms the genuine commitment of the State party to guarantee the basic human rights to all individuals under its jurisdiction. The recognition by Estonia of the competence of the Committee to receive and consider communications from individuals under the Optional Protocol to the Covenant is of particular importance for the effective implementation of the Covenant.

105. The Committee expresses its satisfaction that in the new Criminal Code which is being drafted, no death penalty is provided and welcomes Estonia's intention to accede to the Second Optional Protocol in the near future.

106. The Committee welcomes the adoption by referendum of a new Constitution, which provides in its articles 3 and 123 that universally recognized principles and norms of international law as well as human rights treaties, including the Covenant, shall be incorporated into the domestic legal order and, upon ratification, are given precedence over inconsistent domestic legal provisions.

107. The adoption of a new Law on Courts as well as the reform of the "Prokuratura" constitute a step forward towards securing the independence and impartiality of the judiciary.

4. Principal subjects of concern

108. The Committee is concerned at the lack of legislative provisions to implement articles 3 and 123 of the Constitution, which affects the Covenant's effective precedence over any inconsistent legislative act. It also remains unclear for the Committee whether a provision of domestic law can be declared null and void if it contradicts the Covenant.

109. The Committee notes with concern that no legislation has yet been adopted regarding the right to compensation for citizens whose rights have been violated by the State or by unlawful behaviour of officials.

110. The Committee expresses its concern that a significantly large segment of the population, particularly members of the Russian-speaking minority, are unable to enjoy Estonian citizenship due to the plethora of criteria established by law, and the stringency of language criterion, and that no remedy is available against an administrative decision rejecting the request for naturalization under the Citizenship Law.

111. Noting that the numerous rights and prerogatives, such as the right to participate in the process of land privatization and the right to occupy certain posts or practise some occupations, are granted solely to Estonian citizens, the Committee is concerned that permanent residents who are non-citizens are thus deprived of a number of rights under the Covenant.

112. The Committee is concerned that the conditions for appointment to or employment in any position in a State or local government agency in particular the automatic exclusion of persons unable to satisfy the requirements of the written oath of conscience regarding their previous activities (under the former regime) may give rise to an unreasonable restriction on the right of access to public service without discrimination.

113. With regard to article 3 of the Covenant, the Committee regrets the limited information it received as to the de facto situation of women in Estonia.

114. With regard to article 4 of the Covenant, the Committee notes that, although there are provisions in the Constitution relating to the imposition of state of emergency, no legislation has yet been adopted in conformity with the requirements in the Covenant.

115. The Committee is concerned that the death penalty can still be imposed in Estonia for crimes which cannot be qualified as the most serious crimes under article 6 of the Covenant. Moreover, the Committee notes with concern that, despite the drafting of a new Criminal Code that will abolish capital punishment, recent amendments to the current Criminal Code have added two more crimes to the list of those punished by capital punishment.

116. The Committee notes that the definition of torture in article 114 of the Criminal Code is limited to physical force and does not encompass psychological torture and duress.

117. The Committee is concerned about cases of excessive use of force by law enforcement officials as well as mistreatment of detainees. It is of particular concern to the Committee that punitive measures, such as solitary detention, may be imposed on juvenile detainees. The Committee notes that the law-enforcement system will only be able to function properly when a sufficient number of well-trained police and prison officers are appointed.

118. The Committee is deeply concerned by the fact, as confirmed by the State party in its report, that "prison facilities are overcrowded and that many inmates are subject to unhealthy living conditions". It further regrets that it did not receive sufficient information which would have enabled it to examine the extent to which the State party is in violation of articles 7 and 10 of the Covenant. The Committee further notes with concern that it was not provided with information regarding separation of accused persons from convicted persons, as required under article 10, paragraph 2 (a), of the Covenant.

119. The Committee is concerned that, as a result of the lack of domestic legislation and procedures governing the treatment of asylum-seekers and the determination of their status, the Government has too often resorted to measures of deprivation of liberty.

120. The Committee expresses concern at limitations to the exercise of freedom of association for long-term permanent residents in Estonia, particularly in the political sphere.

121. The Committee is deeply concerned at the definition of minorities in the Estonian legislation, which only encompasses national minorities, thus restricting the application of the Law on Cultural Autonomy by excluding permanent residents from full participation in minority groups.

5. Suggestions and recommendations

122. The Committee recommends that necessary measures be taken to ensure that all domestic provisions inconsistent with the Covenant be repealed and that laws adopted be in full compliance with the provisions of the Covenant. Regarding the actual application of the Covenant, the Committee requests the State party to indicate in its second periodic report any instances where the Covenant was directly invoked before the courts, as well as about the related results.

123. The Committee recommends that the State party review and include information in its next periodic report on the procedures established to ensure compliance with the views and recommendations adopted by the Committee under the Optional Protocol to the Covenant, also bearing in mind the obligations under article 2 of the Covenant.

124. With regard to article 2 of the Covenant, the Committee recommends that all provisions in domestic law discriminating against non-citizens be systematically reviewed and brought into line with articles 2 and 26 of the Covenant.

125. The Committee recommends that the State party review the Law on the Implementation of the Constitution with regard to the obligation to take an oath of conscience, with a view to bring the Law fully into line with

non-discrimination provisions and article 25 of the Covenant and provide for the right to an effective remedy against a decision not to appoint or dismiss a person in case of refusal to take such oath.

126. The Committee recommends that laws be adopted to enable victims of violation of the rights guaranteed under the Covenant to be effectively compensated under domestic law.

127. The Committee recommends that information on the situation of women be provided in the second periodic report, and, more generally, that necessary steps be taken to include appropriate programmes in formal and informal education in order to achieve equality between the sexes.

128. The Committee urges the State party to enact legislation in conformity with the provisions of article 4 of the Covenant.

129. The Committee urges the Government to reduce substantially the number of crimes for which the death penalty may be imposed, in accordance with article 6 of the Covenant pending the adoption of the new Criminal Code that will abolish the death penalty.

130. With regard to article 7 of the Covenant, the Committee strongly recommends that article 114 of the Criminal Code be reviewed so as to ensure its compliance with the broader scope of torture under the Covenant, and calls the attention of the authorities to its General Comment No. 20 (44).

131. The Committee urges the State party to take immediate steps to ensure that all persons deprived of their liberty are treated with humanity and with respect for the inherent dignity of the human person in conformity with articles 7 and 10 of the Covenant.

132. The Committee emphasizes the need for effective control over the police and the prison officials. Intensive training and education programmes in the field of human rights for law-enforcement officials as well as for prison officials are recommended to ensure their observance of the Covenant and other international instruments.

133. The Committee recommends that the Government of Estonia adopts domestic legislation governing the treatment of asylum-seekers in compliance with the Covenant. In that regard, the Committee further recommends that the Government seek assistance from international organizations including the Office of the United Nations High Commissioner for Refugees and consider acceding to the 1951 Refugees Convention as well as the 1967 Protocol thereto.

134. With respect to the rights of minorities, the Committee strongly recommends that national legislation be amended to bring within the scope of the Law on Cultural Autonomy all minorities contained in article 27 of the Covenant and draws attention of the authorities to its General Comment No. 23 (50).

135. The Committee recommends that the Covenant, the Optional Protocol and the Committee's comments be widely disseminated in Estonia. Additionally, the Committee recommends that human rights education be provided in school at all levels and comprehensive human rights training be provided to all segments of the population, including law-enforcement officers and all persons involved in the administration of justice. In this regard, the Committee suggests that the State party avail itself of the technical cooperation services of the United Nations Centre for Human Rights.

D. Mauritius

136. The Committee considered the third periodic report of the Republic of Mauritius (CCPR/C/64/Add.12 and HRI/CORE/1/Add.60) at its 1476th to 1478th meetings, held on 19 and 20 March 1996, and adopted 11/ the following comments:

1. Introduction

137. The Committee welcomes the third periodic report presented by Mauritius and expresses its appreciation to the State party for the additional information submitted orally and in writing during the consideration of the report by a high-level delegation. The Committee regrets, however, that the report was long overdue. The valuable supplementary information provided by the delegation, both oral and written, provided a sound basis for a frank and fruitful dialogue between the Committee and the State party.

2. Factors and difficulties affecting the implementation of the Covenant

138. The Committee finds no significant factors or difficulties which would prevent the effective implementation of the Covenant in Mauritius.

3. Positive aspects

139. The Committee notes that the harmonious coexistence of the multiethnic population of Mauritius and its atmosphere of tolerance strengthen the ability of Mauritius to live up to its obligations under the Covenant.

140. The Committee expresses its appreciation for the adoption of the Abolition of Death Penalty Act 1995 which came into force in December 1995 and provides for the imposition of a sentence of imprisonment for life in place of the death penalty.

141. The Commission welcomes the amendment to section 16 of the Constitution by the enactment of the Constitution of Mauritius (Amendment) Act 1995 which adds sex to the grounds on which discrimination by laws or by public authorities is prohibited. The amendment to the Mauritius Citizenship Act 1968, removing discrimination on grounds of sex, the proposed Bill on Domestic Violence and the full recognition of the equal rights of children born in and out of wedlock are also welcome.

142. The Committee welcomes that the large-scale legislative reform which is being contemplated with a view, *inter alia*, to shortening the length of court proceedings and to reconsider the system of legal aid.

143. The Committee notes with appreciation the promulgation of the Child Protection Act in 1994.

144. The Committee welcomes the establishment of a Human Rights Unit by the Attorney General with a view, *inter alia*, to undertaking the preparation of the reports of Mauritius to the various United Nations human rights treaty bodies.

145. The Committee welcomes the initiatives of Mauritius to establish an Indian Ocean Human Rights Institute.

146. The announcement concerning the proposed establishment of an Independent Police Complaints Board is welcomed.

147. The Committee also welcomes the intention of the Government to set up an Independent Broadcasting Authority.

4. Principal subjects of concern

148. The Committee is concerned that the non-incorporation of all the rights guaranteed in the Covenant into domestic law and the existence of no-permissible limitations affect the full implementation of the Covenant in Mauritius and that, accordingly, the legal system of Mauritius does not ensure effective remedies in all cases of violations of rights guaranteed in the Covenant.

149. The Committee is concerned that excepting personal laws and foreigners from the prohibition of non-discrimination - as set forth in section 16 of the Constitution - results in a violation of article 26 of the Covenant.

150. The Committee notes with concern that the problem of domestic violence has not yet been the object of appropriate measures.

151. The Committee expresses its concern over the provisions in the so far non-implemented Dangerous Drugs Act 1995 under which an arrested person may be held incommunicado at the discretion of a police officer.

152. The Committee notes with concern that the powers of detention provided for in sections 5 (1) (k) and 5 (4) of the Constitution are incompatible with article 9 (3) and (4) of the Covenant.

153. The Committee is concerned that the legislation of Mauritius has not yet been brought into line with article 11 of the Covenant.

154. The Committee is concerned at the extent of de facto limitation on the freedom of expression, as exemplified by the banning of two recent literary works without legal measures having been taken to that effect, and at penal offences relating to libel and the dissemination of false news. Extra legal restrictions on freedom of expression are not compatible with the Covenant.

155. The Committee takes note with concern of the requirement that prior notification be made seven days before any public meeting is held in order to obtain permission from the Commissioner of police.

156. The Committee is concerned by difficulties faced by those working in the Export Processing Zone in the enjoyment of their rights under article 22 of the Covenant.

5. Suggestions and recommendations

157. The Committee emphasizes the need for a legal machinery enabling the individuals to enforce all the rights enshrined in the Covenant before domestic courts.

158. The Committee recommends that all grounds on which discrimination is prohibited, as identified in articles 2 and 26 of the Covenant, be incorporated in the relevant non-discrimination provisions of the Constitution and that the

provisions be extended to cover aliens. It further recommends that section 16 (2) of 16 (4) (c) of the Constitution be amended to render them compatible with articles 2 (1), 3 and 26 of the Covenant and that steps be taken to introduce comprehensive anti-discrimination laws to cover all spheres, public or private, protected by the Covenant. It is also recommended that the proposed Equal Opportunity Commission consider whether affirmative action measures, including educational measures, are necessary to overcome remaining obstacles to equality, such as outdated attitudes concerning the role and status of women.

159. Following the abolition of the death penalty, it is recommended that Mauritius consider ratification of the Second Optional Protocol to the Covenant.

160. The Committee expresses the hope that the envisaged Independent Police Complaint Board is established as soon as possible, and that provisions are included in the law to ensure that the Board will enjoy the powers and receive the resources to enable it to investigate allegations of abuse by members of the police.

161. The Committee stresses the need to establish a mechanism to provide legal aid for appeals to the Privy Council.

162. The Committee recommends the reconsideration of the legislation on the publication of false news. If the State party considers it necessary to allow for some restrictions on publications and showing of films, legislation should be introduced establishing criteria consistent with article 19 (3) of the Covenant and providing for judicial review of all decisions to restrict the exercise of freedom of expression. The Committee expresses the hope that the envisaged Independent Broadcasting Authority is established as soon as possible. It suggests the establishment of a mechanism that would allow for a Press Code of ethics.

163. The Committee suggests that consideration be given to ensuring that restrictions do not exceed what is necessary in a democratic society in conformity with article 21 of the Covenant.

164. The Committee expresses the hope that, as part of the planned review of industrial legislation, the Government will consider whether workers in Export Processing Zones (who include a majority of women) need additional legal protection to ensure their full enjoyment of the rights guaranteed by article 22 of the Covenant.

165. The Committee recommends that appropriate steps be taken to ensure that the inhabitants of the Islands of Agalega and St. Brandon are able to exercise their right to vote as required by article 25 of the Covenant.

166. Lastly, the Committee suggests that steps be taken to disseminate in all languages spoken in Mauritius information about the Covenant and about the report and the proceedings before the Committee. It also suggests that steps be taken to publish educational material, particularly for children, in the most used vernacular languages.

E. Spain

167. The Committee considered the fourth periodic report of Spain (CCPR/C/95/Add.1 and HRI/CORE/1/Add.2/Rev.2) at its 1479th, 1480th and 1481st meetings, on 20 and 21 March 1996 (see CCPR/C/SR.1479, 1480 and 1481). At its 1498th meeting, on 3 April 1996, the Committee adopted 12/ the following comments:

1. Introduction

168. The Committee thanks the State party for submitting, within the allotted time, a report which is in conformity with the Committee's guidelines and for engaging, through its highly qualified delegation, in a constructive dialogue. It notes with satisfaction that the information provided in the report and submitted orally by the delegation has given the Committee an appreciation of the manner in which Spain is acquitting itself of its obligation under the Covenant.

2. Factors and difficulties affecting the implementation of the Covenant

169. The Committee notes with concern that terrorist groups continue to perpetrate bloody attacks which result in loss of human life and affect the application of the Covenant in Spain. It also notes the re-emergence of racist and xenophobic theories and behaviour.

3. Positive aspects

170. The Committee notes with satisfaction that Spain has come a long way in the promotion of and respect for human rights. In this connection it welcomes the accession of Spain, on 22 March 1991, to the Second Optional Protocol aiming at the abolition of the death penalty.

171. The Committee welcomes the fact that efforts have been made to disseminate human rights in schools as well as information on the report to the general public.

172. The Committee notes that the new law of 15 January 1996 concerning the status of minors should contribute to the application in Spain of the Convention on the Rights of the Child and the relevant provisions of the Covenant, particularly article 23.

173. The Committee welcomes the progress made by the State party in promoting equal opportunity for women in all sectors of public and professional life.

174. The Committee notes with satisfaction that the Penal Code drawn up in 1995 includes provisions establishing penalties for acts of racial discrimination and xenophobia.

175. Finally, the Committee notes that many decisions in the national courts refer to the Covenant as the legal basis, in conformity with articles 10 and 96 of the Constitution.

4. Principal subjects of concern

176. The Committee is concerned at the numerous reports it has received of ill-treatment and even torture inflicted on persons suspected of acts of terrorism by members of the security forces. It notes with concern, in that regard, that investigations are not always systematically carried out by the public authorities and that when members of the security forces are found guilty of such acts and sentenced to deprivation of liberty, they are often pardoned or released early, or simply do not serve the sentence. Moreover, those who perpetrate such deeds are seldom suspended from their functions for any length of time.

177. The Committee is concerned that proofs obtained under duress are not systematically rejected by courts.

178. The Committee expresses concern at the maintenance on a continuous basis of special legislation under which persons suspected of belonging to or collaborating with armed groups may be detained incommunicado for up to five days, may not have a lawyer of their own choosing and are judged by the Audiencia Nacional without possibility of appeal. The Committee emphasizes that these provisions are not in conformity with articles 9 and 14 of the Covenant. Again in regard to those two articles of the Covenant, the Committee notes with concern that the duration of pre-trial detention can continue for several years and that the maximum duration of such detention is determined according to the applicable penalty.

179. With regard to the increase in the number of asylum-seekers, the Committee notes that anyone whose application for asylum or for refugee status is denied can be held for seven days prior to being expelled.

180. The Committee deplores the poor prison conditions that exist in most prisons, generally resulting from overcrowding, which deprives those detained of the rights guaranteed in article 10 of the Covenant.

181. Finally, the Committee is greatly concerned to hear that individuals cannot claim the status of conscientious objectors once they have entered the armed forces, since that does not seem to be consistent with the requirements of article 18 of the Covenant as pointed out in General Comment No. 22 (48).

5. Suggestions and recommendations

182. The Committee invites the State party to take the necessary steps, including educational measures and information campaigns, to avert racist and xenophobic tendencies.

183. The Committee recommends that the State party establish transparent and equitable procedures for conducting independent investigations into complaints of ill-treatment and torture involving the security forces, and urges it to bring to court and prosecute officials who are found to have committed such deeds and to punish them appropriately. The Committee suggests that comprehensive human rights training should be provided to law enforcement officials and prison personnel.

184. The Committee recommends that the legislative provisions, which state that persons accused of acts of terrorism or suspected of collaborating with such persons may not choose their lawyer, should be rescinded. It urges the State

party to abandon the use of incommunicado detention and invites it to reduce the duration of pre-trial detention and to stop using duration of the applicable penalty as a criterion for determining the maximum duration of pre-trial detention.

185. The State party is strongly urged to institute a right of appeal against decisions of the Audiencia Nacional in order to meet the requirements of article 14, paragraph 5, of the Covenant.

186. The Committee urges the State party to amend its legislation on conscientious objection so that any individual who wishes to claim the status of conscientious objector may do so at any time, either before or after entering the armed forces.

F. Zambia

187. The Committee considered the second periodic report of Zambia (CCPR/C/63/Add.3 and HRI/CORE/1/Add.22/Rev.1) at its 1487th to 1489th meetings (see CCPR/C/SR.1487-1489), on 26 and 27 March 1996. At its 1498th meeting, on 3 April 1996, the Committee adopted 13/ the following comments:

1. Introduction

188. The Committee welcomes the submission of the second periodic report and expresses its appreciation to the State party for the resumption of a constructive dialogue with the Committee. The Committee regrets, however, that although the report provides information on general legislative norms in Zambia, it largely fails to deal with the actual state of implementation of the Covenant in practice and the difficulties encountered in the course of implementation. The Committee appreciates the presence of a delegation which provided helpful information to the Committee in addressing its questions and thus allowed it to obtain a somewhat clearer view of the overall situation in the State party. Unfortunately, the delegation did not include experts on all the issues dealt with in the report or on issues usually raised by the Committee during the consideration of the reports of States parties.

2. Factors and difficulties affecting the implementation of the Covenant

189. The remnants of certain traditions and customs constitute an obstacle to the effective implementation of the Covenant, particularly with regard to equality between men and women.

3. Positive aspects

190. The Committee recognizes that the State party has begun amending its domestic legislation to bring it into line with the Covenant.

191. The Committee welcomes the introduction of a multi-party system of government as well as efforts undertaken by the State party to strengthen democratic institutions and the multi-party system. In that regard, it takes note of the establishment of a Commission to review the Constitution and of the adoption of measures designed to strengthen the rule of law. It further welcomes the setting up of the Munyama Human Rights Commission.

192. The Committee appreciates the efforts made by the Government to implement views adopted by the Committee under the Optional Protocol.

4. Principal subjects of concern

193. The Committee notes with concern that steps still remain to be taken to harmonize the Constitution with the Covenant and to develop democratic institutions and human rights machinery for better implementation of the Covenant.

194. The Committee also notes with concern that the equality clause in section 11 of the Constitution and the non-discrimination clause in section 23

do not apply to non-citizens and that there are other exemptions in section 23 which are not compatible with articles 3 and 26 of the Covenant.

195. The Committee expresses its concern over the situation of women who, despite some advances, continue to be de jure and de facto the object of discrimination, particularly as regards education, access to work and participation in the conduct of public affairs. The application of customary laws in matters of personal status, marriage, divorce and inheritance rights reinforces outdated attitudes concerning the role and status of women. The Committee also regrets the lack of measures to adequately address problems raised with regard to violence against women and the high maternal mortality resulting from abortion.

196. Section 43 of the Constitution, which restricts the right of individuals to pursue civil remedies against the President in the courts for anything done in his private capacity, is incompatible with the provisions of article 14 of the Covenant.

197. The Committee regrets that the proclamation of a state of emergency in March 1993 was not notified to the Secretary-General in accordance with article 4, paragraph 3, of the Covenant. The Committee also regrets the lack of clarity of the legal provisions governing the introduction and administration of a state of emergency, particularly sections 31 and 32 of the Constitution, which would permit derogations contravening the State party's obligations under article 4, paragraph 2, of the Covenant. The Committee is also concerned that the derogation of rights permissible under section 25 of the Constitution goes far beyond that permissible under article 4, paragraph 2, of the Covenant.

198. The Committee is concerned that the rights contained in articles 7, 9 and 10 of the Covenant are not fully respected. The Committee is concerned in particular that torture and ill-treatment of persons deprived of their liberty continue to be reported and that abuses allegedly committed by police officers and members of security forces are not duly investigated by an independent body.

199. The Committee welcomes the establishment of the National Committee on Penal Reform. It is, however, greatly concerned at the poor conditions in places of detention and the lack of implementation of guarantees in article 10 of the Covenant as well as in the United Nations Standard Minimum Rules for the Treatment of Prisoners.

200. The Committee is concerned that three journalists were found to be in "gross contempt of the National Assembly" without any of the procedural guarantees of fair trial provided for by articles 9 and 14 of the Covenant and that two of these journalists were held in indefinite detention before release, contrary to the provisions of article 9 of the Covenant and even contrary to section 13 of the Constitution and sections 27 and 28 (3) of the National Assembly (Powers and Privileges) Act.

201. The Committee is also concerned by reports of arrests and charges against journalists for the publication of newspaper articles. Use of the criminal process to ensure accountability of the press for the veracity of its reports is not compatible with article 19 of the Covenant. Robust and even harsh criticism of government figures is an essential part of free speech in a democratic country.

202. The Committee is concerned that the proposals made by the Constitutional Review Committee in regard to appointment of judges of the Supreme Court by the

President after their retirement and the removal of Supreme Court judges by the President, subject only to ratification by the National Assembly without any safeguard or inquiry by an independent judicial tribunal, are incompatible with the independence of the judiciary and run counter to article 14 of the Covenant.

203. The Committee is also concerned that no measures are taken that pregnancy or parenthood do not affect the continuous education of children.

204. The requirement to sing the national anthem and salute the flag as a condition of attending a State school, despite conscientious objection, appears to be an unreasonable requirement and to be incompatible with articles 18 and 24 of the Covenant.

205. The Committee is further concerned that provisions in the Penal Code which fix eight years as the age of criminal responsibility and which permit children to be charged jointly with adults to be tried in the ordinary criminal courts appear to be incompatible with articles 14, paragraph 4, and 24 of the Covenant.

5. Suggestions and recommendations

206. The Committee strongly encourages the Government to undertake a thorough review of the legal framework for the protection of human rights in the State party to ensure full conformity with the Covenant. It recommends that appropriate institutions be set up in order to effectively promote the observance of human rights.

207. The Committee recommends that the State party review its laws and make appropriate amendments, including the abrogation of subsections 23 (4) (c) and (d) of the Constitution, to ensure full legal and de facto equality for women in all aspects of social and economic relationships and, particularly in the laws governing the status of women, women's rights and obligations in marriage. It emphasizes the need for the authorities to increase efforts to prevent and eliminate persisting discriminatory attitudes and prejudices against women. Comprehensive anti-discriminatory laws covering both the private and the public spheres should be introduced as well as, where appropriate, affirmative action measures.

208. The Committee recommends that the authorities adopt legislation to bring the domestic legal regime, including section 25 of the Constitution, into harmony with the State party's obligations under article 4 of the Covenant.

209. The Committee recommends that, in view of the current debate referred to in paragraph 18 of the report and the fact that there have been no executions since 1988, the State party consider taking measures for the abolition of the death penalty and the ratification of or accession to the Second Optional Protocol to the Covenant.

210. The Committee urges the authorities to take the necessary steps to ensure that torture, ill-treatment and illegal detention do not occur and that any such cases are duly investigated by an independent authority in order to bring before the courts those accused of having committed such acts and to punish them if found guilty. The Committee also recommends that the report of the Munyama Human Rights Commission be published as soon as possible and that the State party move for the reform of penal law and practice.

211. The Committee recommends that steps be taken in law and in practice to implement fully the provisions of article 10 of the Covenant as well as United Nations Standard Minimum Rules for the Treatment of Prisoners and to make relevant laws and regulations governing the treatment of persons deprived of their liberty known and accessible to the prisoners themselves as well as the police, armed forces, prison personnel and other persons responsible for holding interrogation. Urgent steps should be taken to reduce the number of prisoners through the review of sentences, by speeding up trials or otherwise.

212. The Committee recommends the abolition of imprisonment for civil debt, in compliance with article 11 of the Covenant.

213. Corporal punishment should be abolished, in accordance with article 7 of the Covenant.

214. The Committee recommends that mere criticism by journalists of government officials should not be made a criminal offence.

215. The Committee welcomes the release under court order of two journalists who were detained after being found to be in contempt of the National Assembly. It trusts that the third journalist censured by Parliament will not be detained. It urges that in future all cases in which people are suspected of contempt of Parliament be dealt with by the courts in a manner consistent with all requirements of the Covenant.

216. The Committee calls upon the State party to prepare its third periodic report in compliance with the Committee's guidelines for the preparation of State party reports (CCPR/20/Rev.1). The report should in particular include detailed information on the extent to which each right is enjoyed in practice, and refer to specific factors and difficulties that might impede its application. In undertaking this obligation, the State party may wish to avail itself of the Advisory Services and Technical Assistance Programme of the United Nations Centre for Human Rights.

G. Guatemala

217. The Committee considered the initial report of Guatemala (CCPR/C/81/Add.7 and HRI/CORE/1/Add.47) at its 1486th, 1488th and 1489th meetings on 26 and 28 March 1996 (CCPR/C/SR.1486, 1488 and 1489) and subsequently adopted 14/ the following comments:

1. Introduction

218. The Committee welcomes the initial report submitted by the State party and welcomes the delegation's willingness to engage in a frank and fruitful dialogue with the Committee. The Committee regrets, however, that although the report provides information on general legislative norms in Guatemala, it largely fails to deal with the actual state of implementation of the Covenant in practice and the difficulties encountered in the course of implementation which the delegation frankly admitted, a fact which the Committee appreciates. The Committee appreciated the presence of a competent delegation which provided helpful information to the Committee in addressing its questions and thus allowed it to obtain a clearer view of the overall human rights situation in the State party.

2. Factors and difficulties affecting the implementation of the Covenant

219. The Committee notes that Guatemala continues to suffer from a long civil war, which has devastated the country for more than four decades. In the context of such conflict, gross and massive human rights violations have occurred and, although some steps have been taken in recent years to achieve peace, the conflicting parties have not yet negotiated an end to the war. The situation of armed conflict which has prevailed since Guatemala ratified the Covenant has given rise to serious violations of human rights. The armed conflict has also subjected civilian governmental authority to the power of the military, which is incompatible with the legitimate functions of freely elected authorities and the purpose of elections.

220. The Committee also notes that various segments of the population, particularly persons who are or were members of the armed forces or government officials, or who hold economic power, continue to take advantage of a climate of impunity resulting in the most serious human rights violations and has been an obstacle to the rule of law in the State party.

221. The Committee also notes that social and economic disparity are all pervasive in the country. High levels of poverty and illiteracy, lack of opportunities, and discrimination against the indigenous population, women and the poor contribute to widespread violation of human rights.

3. Positive aspects

222. The Committee expresses its satisfaction with positive changes for the protection of human rights since the signing of the Central American Peace Accords on 7 August 1987. It notes that some progress has been made towards entering a dialogue that would hopefully put an end to the situation of armed conflict and lead to the establishment of the rule of law. In that connection, the Committee notes the signing on 29 March 1994 of the Comprehensive Agreement

on Human Rights, and consequently the establishment of the United Nations Mission in Guatemala (MINUGUA) and of its human rights component, as well as the conclusion of the Agreement on Resettlement of the Population Groups Uprooted by the Armed Conflict on 23 June 1994.

223. The Committee welcomes the current Government's intentions to achieve a firm and lasting peace in Guatemala and its willingness to put an end to serious violations of human rights and to create a better political, constitutional and legal framework towards the full implementation of the rights enshrined in the Covenant. The Committee also welcomes the termination of offensive military actions decreed by the Unidad Revolucionaria Nacional Guatemalteca (URNG) and the cease of all counterinsurgency operations by the Government decreed by President Arzú. The Committee also welcomes the suppression of the obligatory military service, which will aid in the demilitarization of the country.

224. In that respect, the Committee welcomes positive steps taken by the recently elected Government, such as the dismissal of certain top officials of the armed forces and the reopening of a dialogue with the armed opposition on 22 February 1996. It also welcomes the elimination of the post of the Military Commissioner (Comisionado Militar) and the demobilization of more than 14,000 persons from the security forces.

225. The Committee welcomes Guatemala's ratification of the Covenant in 1992, as well as the adoption by Congress of legislation approving ratification of the Optional Protocol. It welcomes the indication made by the representatives of the State party that Guatemala will deposit its instrument of ratification to the Optional Protocol within the next few days.

226. The Committee welcomes the establishment of the Office of the Human Rights Procurator and the Presidential Commission for Coordinating Executive Policy in the Field of Human Rights (COPREDEH). The Committee also welcomes the legal reform undertaken in some areas, notably constitutional amendments to bring Guatemalan law in conformity with international human rights standards, the adoption of a new Code of Criminal Procedure, and the enactment of a new Law on the Prosecutor's Office (Ley Orgánica del Ministerio Público), aiming at the investigation and punishment of human rights violations.

227. The Committee welcomes recent legislation making torture, forced disappearances and extrajudicial executions punishable offences in Guatemala. It also welcomes recent development to curb the power of military tribunals and to bring cases of human rights violations by members of the army and the security forces under the jurisdiction of civil courts.

228. The Committee welcomes the recent elections and the fact that after a failed coup d'état the authority vested on freely elected officials was strengthened.

4. Principal subjects of concern

229. The Committee is concerned that the absence of a State policy for combating impunity has prevented the identification, trial and punishment if found guilty of those responsible, and the payment of compensation to the victims. The Committee is concerned that the delays and failures of the process of law, and the non-compliance by the police with court decisions and orders has heightened the public perception that justice cannot be obtained.

230. The Committee expresses concern that human rights violations continue to occur in Guatemala, particularly serious and systematic violations of the right to life and liberty and security of the person carried out by paramilitary groups, many of them linked to the State's security forces.

231. The Committee is concerned at the extension of the death penalty in a way which might not be in conformity with the requirements of article 6, paragraph 2, of the Covenant.

232. The Committee notes with alarm the information received of cases of summary executions, disappearance, torture, rape and other inhuman or degrading treatment or punishment, arbitrary arrests and detention of persons by members of the army and security forces, or paramilitary and other armed groups or individuals (notably the Civil Self-Defence Patrols (PACs) and former military commissioners).

233. The Committee is concerned at the cases of violence against the repatriated population, which has resulted in extrajudicial executions, disappearances, and torture or ill-treatment. In connection to this, it is concerned at the conduct of PAC members who have availed themselves of their position to harass repatriated persons.

234. The Committee notes with concern that members of various social sectors, particularly members of the judiciary, lawyers, journalists, human rights activists, members of trade unions and members of political parties faced serious obstacles in the legitimate performance of their duties, being subject to intimidation, death threats and even murders. The Committee deplores that effective measures have not yet been taken to prevent recurrence of such acts.

235. The Committee is concerned that judges are subjected to supervision of an Executive Branch body which may affect their independence.

236. The Committee deplores the situation of street children in Guatemala who are subjected to serious violations of their human rights under the Covenant, particularly their right to life and not to be subjected to torture and ill-treatment. The Committee is concerned at the intensity of abuse against street children by persons of authority, including the public and private police.

237. The Committee is concerned at customs and traditions prevailing in Guatemala which discriminate against women. It is particularly concerned at the statement by the delegation that State institutions are frequently not in a position to address the problems affecting the female population. The Committee is especially concerned at violence within the family which not only affects women but also the children.

238. The Committee expresses concern at the specific impact of the prevailing violence within the country on the enjoyment by members of indigenous groups of their rights under article 27 of the Covenant. In that connection, the Committee is concerned that despite the signing of an accord between the Government and the armed opposition on 31 March 1995 on the identity and rights of the indigenous population, the law on indigenous communities required by article 17 of the Constitution has not yet been enacted.

239. The Committee is concerned at the curtailment of the right of association, especially within the workplace. In this sense, it is concerned at the high levels of violence against trade-union members, at the intimidation by agents of

offshore operations and at the high number of cases of strikes that are deemed illegal.

5. Suggestions and recommendations

240. The Committee strongly encourages the Government to undertake a thorough review of the legal framework for the protection of human rights in the State party to ensure full conformity with the Covenant.

241. The Committee urges the Guatemalan Government to continue working in the process of national reconciliation which may bring lasting peace to Guatemalan society. The Guatemalan Government should take all pertinent measures to avoid cases of impunity and, especially, to allow the victims of human rights violations to find the truth about those acts, to know who the perpetrators of such acts are, and to obtain appropriate compensation.

242. The Committee recommends that the State party endeavour to bring to justice perpetrators of human rights abuses, notwithstanding the positions they may have held, in accordance with the Covenant. It urges the State party to investigate allegations of human rights violations, past and present, to act on the findings of its investigations, to bring to justice those suspected, to punish the perpetrators, and to compensate the victims of such acts. Persons found guilty of having committed human rights violations should be expelled from the armed or security forces and punished accordingly.

243. The Committee recommends that the Office of the Human Rights Procurator and the Presidential Commission for Coordinating Executive Policy in the Field of Human Rights (COPREDEH) be strengthened, both with regard to resources and jurisdiction, in order to ensure that they may effectively carry out their responsibilities.

244. The Committee recommends that all necessary measures be taken to ensure that human rights are respected by members of the army, security forces and the police. It urges continuing vigorous action to ensure that persons responsible for human rights abuses do not re-enter the police, army or security forces. Immediate steps should be taken to disband paramilitary and other groups particularly the Civil Self-Defence Patrols (PACs).

245. The Committee recommends that an educational programme be devised so that all segments of the population, in particular members of the army, security forces and the police, as well as present and former members of the Civil Self-Defence Patrols, develop a culture of tolerance and respect of human rights and human dignity.

246. The Committee urges the Government to take all necessary steps, including protective and pre-emptive measures, to ensure that members of various social sectors, particularly members of the judiciary, lawyers, journalists, human rights activists, members of trade unions and members of political parties be enabled to perform their duties without intimidation of any sort.

247. The Committee recommends that the independence of the Judiciary be ensured and a law regulating it be enacted.

248. The Committee recommends that appropriate stringent measures be taken to ensure the fullest possible implementation of article 24 of the Covenant, including adequate protection of street children. Stern measures must be taken

to punish those found guilty of committing any kind of violence against minors, especially against those who endure hard living conditions.

249. The Committee also urges that violence (especially within the home) and acts of discrimination against women (such as sexual harassment in the workplace) be established as punishable crimes.

250. The Committee recommends that further measures be taken to ensure that members of indigenous groups be protected against the prevailing violence within the country and enjoy fully their rights under article 27 of the Covenant, particularly with regard to preservation of their cultural identity, language and religion. The legislation on indigenous communities should be enacted without delay.

251. The Committee urges that respect for human rights be institutionalized at all levels of the Government and recognized as an essential element of the process of national reconciliation and reconstruction. To that end, the Committee recommends that human rights education be provided in schools at all levels and that these concluding observations be widely disseminated.

252. The Committee urges the Guatemalan Government to restrict the application of the death penalty to those crimes which might be considered most serious, in accordance with article 6, paragraph 2, of the Covenant.

253. The Committee urges that MINUGUA continues its activities in that country until it certifies that it has fully discharged its mandate relating to human rights.

H. Nigeria (discussion at the fifty-sixth session)

1. Introduction

254. Deeply concerned by recent executions after trials that were not in conformity with provisions of the Covenant, the Human Rights Committee on 29 November 1995, acting through its Chairman, requested the Government of Nigeria to submit its initial report without further delay for consideration by the Committee at its fifty-sixth session in March/April 1996 and, in any event, to submit by 31 January 1996 a report, in summary form if necessary, relating to the application of articles 6, 7, 9 and 14 of the Covenant on Civil and Political Rights in the current situation.

255. The Committee appreciates the decision of the Government of Nigeria to submit its initial report (CCPR/C/92/Add.1) in time for consideration at its fifty-sixth session as scheduled.

256. Given the importance of the report in the current situation and the constraints of the Nigerian delegation in being available for only one day, the Committee decided to divide the examination of the report into two parts, namely, the first part on articles 6, 7, 9 and 14 and the second part on the remaining articles of the Covenant.

257. The first part was considered at the 1494th and 1495th meetings of the Committee held on 1 April 1996 (CCPR/C/SR.1494 and 1495). Further consideration of the report was adjourned to the fifty-seventh session of the Committee in July 1996 in Geneva.

258. In the light of the examination of the first part of the report and the observations made by members of the Committee, the Committee adopted 15/ the following preliminary observations and urgent recommendations.

2. Principal concerns in respect of articles 6, 7, 9 and 14

259. The Committee noted fundamental inconsistencies between the obligations undertaken by Nigeria under the Covenant to respect and ensure rights guaranteed under the Covenant and the implementation of those rights in Nigeria.

260. In particular, the incommunicado detention for an indefinite period and the suppression of habeas corpus constitute violations of article 9 of the Covenant.

261. The establishment by Presidential Decree of several types of special tribunals, including their composition and rules of procedure which exclude the free choice of a lawyer, and the absence of any provisions for appeals, constitute violations of rights provided under article 14 of the Covenant as well as violations of article 6, paragraph 1, and article 6, paragraph 2, of the Covenant when a sentence of death is pronounced.

262. The failure to respect these guarantees has led to the arbitrary deprivation of life of Mr. Ken Saro Wiwa and the other co-accused.

263. There would not appear to have been any serious investigations into allegations of torture, ill-treatment or conditions of detention which raise serious issues under article 7 of the Covenant.

3. Urgent recommendations

264. The Committee, in particular, recommends that all the Decrees establishing special tribunals or ousting normal constitutional guarantees of fundamental rights or the jurisdiction of the normal courts (such as State Security (Detention of Persons) Decree No. 2 of 1984, the Federal Military Government (Supremacy and Enforcement of Powers) Decree No. 12 of 1994, the Civil Disturbances (Special Tribunal) Decree No. 2 of 1987, Treason and Other Offences (Special Military Tribunal) Decree No. 1 of 1986), which violate some of the basic rights under the Covenant, be abrogated and that any trials before such Special Tribunals be immediately suspended.

265. The Committee recommends that urgent steps be taken to ensure that persons facing trials are afforded all the guarantees of a fair trial as explicitly provided in article 14 (1), (2) and (3) and to have their conviction and sentence reviewed by a higher tribunal in accordance with article 14 (5), of the Covenant.

266. The Committee requests the Government of Nigeria to inform the Committee at the resumed consideration of the report in July 1996 of the steps it has taken to implement the above recommendations.

I. Nigeria (continued at the fifty-seventh session)

267. Following the examination of the initial report of Nigeria insofar as it related to the application of articles 6, 7, 9 and 14 of the Covenant in Nigeria, the Committee, at its 1499th meeting, on 3 April 1996, adopted certain urgent recommendations. These included the abrogation of all decrees establishing special tribunals or revoking normal constitutional guarantees of fundamental rights or the jurisdiction of the normal courts as well as the adoption of urgent steps to ensure that persons facing trial were afforded all guarantees of a fair trial (see document CCPR/C/79/Add.64, paras. 11 to 13).

268. The dialogue with Nigeria continued during the fifty-seventh session. At its 1526th and 1527th meetings (fifty-seventh session), held on 24 July 1996, the Committee adopted the following concluding comments:

1. Introduction

269. The Committee welcomes the opportunity to resume the dialogue with the Government of Nigeria through a high-ranking delegation that included members of the newly established National Human Rights Commission.

2. Factors and difficulties affecting the implementation of the Covenant

270. The Committee notes that the continuation of the military regime and in particular the suspension of constitutional guarantees of rights by decrees of that regime are an obstacle to the effective implementation of rights protected under the Covenant.

271. The Committee notes also that the failure of the Government to undertake an analysis of laws and procedures, including customary laws to assess the compatibility with the Covenant, has prevented the effective implementation of rights protected by the Covenant.

272. Inter-ethnic and inter-religious violence which persist in Nigeria appear to affect adversely the enjoyment of rights and freedoms protected by the Covenant.

3. Positive aspects

273. The Committee notes the measures that have been taken by the Government since the fifty-sixth session to overcome some obstacles to the enjoyment of rights which were identified by the Committee. It appreciates that the newly enacted Civil Disturbances (Special Tribunal) (Amendment) Decree removes military personnel from the Civil Disturbances Tribunal and provides for the right of appeal from its sentences and convictions. It welcomes the repeal of Decree No. 14 of 1994 (which precluded courts from issuing writs of habeas corpus) by the State Security (Detention of persons) (Amendment) (No. 2) (Repeal) Decree, adopted on 7 June 1996. It also notes that a panel has been established to review cases of detention under Decree No. 2 of 1984.

274. The Committee welcomes the fact that municipal elections have been held; that political parties have been registered; that preparations are proceeding

for national elections; and that the year for these elections has been announced.

275. The Committee welcomes the adoption of Decree No. 22 of 1995, establishing the National Human Rights Commission which has been given certain responsibilities regarding the promotion and protection of human rights.

276. It further welcomes the establishment of a Ministry of Women's Affairs and Social Welfare. It also welcomes measures taken to promote the participation of women at all levels of the political, economic and social life of the country.

277. The Committee also welcomes the willingness of the Nigerian Government to undertake an analysis of the legal system in the light of its obligations under the Covenant and to seek the technical assistance from the Centre for Human Rights in this process.

4. Principal subjects of concern

278. The Committee notes with deep concern that measures have not been adopted to address all the issues of concern identified by the Committee at its fifty-sixth session and to implement the urgent recommendations in its preliminary comments (see CCPR/C/79/Add.64). In particular, the Committee is concerned that the Government of Nigeria has not abrogated the decrees establishing special tribunals or those revoking normal constitutional guarantees of fundamental rights as well as the jurisdiction of the normal courts. The Committee deplores the statement of the delegation that the decrees are not to be abrogated because they pre-dated the entry into force of the Covenant in Nigeria and are an essential part of military rule in Nigeria. The Covenant precludes measures derogating from the State party's obligations other than in the limited circumstances provided for by article 4 which have not been applied in the case of Nigeria.

279. The Committee expresses its grave concern that the continuation of Military Government and rule by Presidential decrees which suspend or override constitutional rights and which are not open to review by the courts are incompatible with the effective implementation of the Covenant.

280. The Committee wishes to reiterate that there remain fundamental inconsistencies between the obligations undertaken by Nigeria to respect and ensure rights guaranteed under the Covenant and the implementation of those rights in Nigeria. It is further concerned that there is no legal protection of rights in Nigeria, as a consequence of the non-applicability of the 1989 Constitution and the adoption of Decree No. 107 of 1993 that re-established the 1979 Constitution, while excluding the application of the section dealing with basic rights. Another concern of the Committee is the number of decrees suspending or restoring previous laws, with exceptions in some cases. The result appears to be uncertainty as to which rights may be invoked and which are suspended.

281. The Committee must repeat its earlier expression of serious concern in relation to the establishment by decree of special tribunals which operate without observing the requirements of fair trial as required by article 14 of the Covenant.

282. The Committee is concerned that, under Nigerian law, the death penalty may be imposed for crimes which do not constitute "the most serious offences" as

required by article 6 of the Covenant and that the number of death sentences passed and actually carried out is very high. The fact that sentences of death are passed without the safeguard of fair trial violates the provisions of articles 14 (1) and 6 of the Covenant. Public executions are also incompatible with human dignity.

283. The Committee notes with concern that, following the introduction of measures to overcome certain specific violations of rights in regard to the composition of special tribunals and the right of appeal, no compensation has been offered to victims of the human rights abuses which had already occurred under the previous measures.

284. The Committee is deeply concerned by the high number of extrajudicial and summary executions, disappearances, cases of torture, ill-treatment, and arbitrary arrest and detention by members of the army and security forces and by the failure of the Government to investigate fully these cases, to prosecute alleged offences, to punish those found guilty and provide compensation to the victims or their families. The resulting state of impunity encourages further violations of Covenant rights.

285. The Committee is disturbed at the poor conditions in places of detention that include severe overcrowding, lack of sanitation, lack of adequate food, clear water and health care, all of which contribute to a high level of death in custody. The Committee emphasizes that it is incompatible with the Covenant to hold prisoners under conditions which do not meet the basic guarantees provided in article 10 of the Covenant as well as in the United Nations Standard Minimum Rules for the Treatment of Prisoners, despite its adoption of prison regulations, contained in chapter 366 of the Prisons Act (1990).

286. The Committee is concerned at the large number of persons detained without charge, and the lengthy periods of pretrial detention which are incompatible with article 9 of the Covenant. It is particularly concerned that incommunicado detention is commonly ordered and often for indefinite periods and without access to judicial review, in violation of article 9 of the Covenant.

287. The Committee is seriously concerned at violations of the right to freedom of expression, as exemplified by the adoption of a number of decrees suspending newspapers, as well as the arbitrary arrest, detention and harassment of editors or journalists.

288. The Committee notes with concern the extent of restrictions to the freedom of association and assembly in law and in practice. The Committee is concerned by numerous reports it received according to which members of unions were harassed and intimidated, sometimes even arrested and detained, that the dissolution of certain unions has been ordered by the Government.

289. The Committee is concerned by the arrest and detention of officers of human rights organizations, involving violations of articles 9 and 22 of the Covenant and interfering with the free exercise of the significant role played by such organizations in the protection of human rights.

290. The Committee takes note of allegations by a Nigerian non-governmental organization (Civil Liberty Organization) that two of its officials were prevented by the State Security Service from attending the fifty-sixth session of the Committee and had their passports impounded. It regrets that despite a letter by the Chairman giving details of these allegations, an investigation was not completed before the fifty-seventh session and that no information could be

provided about the circumstances alleged. Preventing persons from leaving their country violates article 12 (2) of the Covenant and is incompatible with the State's obligation to cooperate with the Committee to prevent them from leaving in order to attend meetings of the Committee.

291. The Committee expresses its concern about the situation of women in Nigeria, particularly as regards their low level of participation in public life and the continued application of marriage regimes which permit polygamy and do not fully respect the equal rights of women. It expresses particular concern about the widespread practices of forced marriage and of genital mutilation of girls.

5. Suggestions and recommendations

292. The Committee recommends that immediate steps be taken to restore democracy and full constitutional rights in Nigeria without delay.

293. As already recommended by the Committee, all decrees revoking or limiting guarantees of fundamental rights and freedoms should be abrogated. All courts and tribunals must comply with all standards of fair trial and guarantees of justice prescribed by article 14 of the Covenant.

294. The Committee recommends that a review of the legal framework for the protection of human rights in Nigeria be undertaken in order to ensure that the principles of the Covenant are incorporated into the legal system and that effective remedies are provided in case of violations of rights.

295. The Committee also recommends that Decree No. 107 of 1993 and any other measures which abrogate or suspend the application of the basic rights enshrined in the 1979 Constitution, be abrogated, so that the legal protection of these rights is restored in Nigeria. The Committee recommends that the State party ensure that there is no such abrogation or derogation in future other than in strict compliance with article 4, in time of public emergency which threatens the life of the nation and which is officially proclaimed and communicated to the Secretary-General of the United Nations.

296. The Committee requests the State party to take effective measures to implement the full and equal enjoyment by women of rights and freedoms protected by the Covenant. These measures should ensure the equal participation by women at all levels of the political, social and economic life of the country. The Committee recommends that steps should be taken, in particular through education, to overcome certain traditions and customs, such as female genital mutilation and forced marriages which are incompatible with the equality rights of women.

297. The Committee recommends that the State party consider the abolition of the death penalty. Until its abolition the State party must ensure that the application of the death penalty be strictly limited to the most serious crimes as required by article 6 (2) of the Covenant, and that the number of crimes for which the death penalty is imposed be reduced to the minimum. Urgent steps should be taken to ensure that persons facing trials are afforded all the guarantees of a fair trial as explicitly provided for in article 14 (1), (2) and (3) of the Covenant and to have their conviction and sentence reviewed by a higher tribunal in accordance with article 14 (5) of the Covenant.

298. The Committee recommends that the Nigerian authorities take effective measures to prevent arbitrary, extrajudicial and summary executions as well as torture, ill-treatment, and arbitrary arrest and detention by members of the security forces, and to investigate any such cases in order to bring before the courts those suspected of having committed or participated in such crimes, to punish them if found guilty, and to provide compensation to victims or to their families.

299. The Committee recommends that urgent steps be taken to release all persons who have been detained arbitrarily or without charges and to reduce the period of pre-trial detention. The practice of incommunicado detention should cease. Compensation should be provided in the cases indicated by article 9 (5) of the Covenant.

300. The Committee recommends that the State party take all necessary measures to ensure that the conditions of detention of persons deprived of their liberty fully meet article 10 of the Covenant and the United Nations Standard Minimum Rules for the Treatment of Prisoners. The overcrowding of prisons should be reduced by overcoming delays in the trial process, by considering alternative forms of punishment, or by expanding the number of prison places.

301. The Committee recommends that the legislation and the practice relating to the exercise of the freedom of expression be revised and amended in order that they comply with the provisions of article 19 of the Covenant.

302. The Committee also recommends that measures be taken to ensure that the right to form and join trade unions be respected as required by article 22 of the Covenant and that the plan calling for trade union elections in October 1996 be implemented.

303. The Committee recommends that attention be given by the federal and state authorities to the situation of persons belonging to minorities, so that their rights as enshrined in article 27 of the Covenant be fully protected. In this regard, due consideration should be given to the Committee's General Comment No. 23 (50).

304. The Committee wishes to emphasize that the consideration of reports submitted under article 40 of the Covenant takes place in public meetings and in the presence of representatives of the State party concerned. Representatives of non-governmental organizations, whether internationally or locally based, are entitled to attend the meetings at which reports are being considered and to provide information to members of the Committee on an informal basis. The Government of Nigeria should ensure that individuals (including members of non-governmental organizations) are not prevented from leaving Nigeria to attend the Committee's sessions, should conduct immediate investigations into the allegations mentioned in paragraph 290 above, and should inform the Committee of the result of these investigations.

305. The Committee recommends that the Government of Nigeria should ensure that the National Human Rights Commission (or other agency) take steps to inform and educate the community about the rights and freedoms protected by the Covenant and the Constitution and about the remedies available in case of violation of rights. It should seek the assistance of the Technical and Advisory Services of the United Nations Centre for Human Rights in this process.

J. Brazil

306. The Committee considered the initial report of Brazil (CCPR/C/81/Add.6) at its 1506th to 1508th meetings, on 10 and 11 July 1996 (see CCPR/C/SR.1506 to 1508). At its 1526th meeting, on 24 July 1996, the Committee adopted the following comments:

1. Introduction

307. The Committee expresses its appreciation to the State party for submitting an initial report that was prepared in accordance with the reporting guidelines. The frankness and comprehensiveness of the information contained in the report merit special mention. Appreciation is also expressed for the introductory statement delivered by the delegation, detailing steps taken by the State party to give effect to the provisions of the Covenant after the report was submitted. The Committee welcomed the candid manner in which the high-level delegation responded to questions posed by Committee members. The exchange of views with the delegation was constructive and fruitful, although the Committee regrets that some of the questions raised during the examination of the State party's report remained unanswered.

2. Factors and difficulties affecting the implementation of the Covenant

308. The enormous disparities in distribution of wealth between different sections of the population would appear to be a major factor behind phenomena described in the report that are incompatible with enjoyment of the most basic rights protected under the Covenant.

3. Positive aspects

309. The Committee acknowledges the Federal Government's commitment to adopt measures to enhance protection of the rights provided for under the Covenant. It welcomes legislative and other measures undertaken in recent years by the State party with a view to strengthening the promotion and protection of human rights. In this regard, the Committee takes note of the recent ratification by the State party of international and regional human rights instruments. It also welcomes the launching of the National Human Rights Programme through Decree No. 1904 of 13 May 1996, which is intended to accelerate the process of respect and observance of human rights. The proposed initiatives to restructure and strengthen the role of the Council for the Defence of the Human Person (CDDPH) and the establishment of the Office of the Public Defender as a means of facilitating public access to the judicial system are noted with interest by the Committee. The Committee also supports the measures being taken by the Federal Government that will allow the Attorney General to bring cases of human rights violations to the Federal system of justice.

4. Principal subjects of concern

310. With regard to the State party's obligations under articles 2 and 50 of the Covenant, the Committee is concerned that measures taken to ensure the implementation of Covenant rights in all parts of the Federation remain

ineffective and inadequate, particularly in view of the vastness of the territory and the remoteness of certain areas. It questions whether the Federal Government has established the necessary means to ensure that state and local governments in Brazil will protect effectively Covenant rights.

311. The Committee is deeply concerned by cases of summary and arbitrary executions committed by security forces and by death squads, frequently involving members of security forces, against individuals belonging to particularly vulnerable groups that include street children, landless peasants, indigenous people and trade-union leaders.

312. The Committee also expresses its deep concern over the prevalence of torture, arbitrary and unlawful detention, death threats and acts of violence against prisoners committed by security forces and in particular by the military police.

313. The Committee deplores the fact that cases of summary and arbitrary executions, torture, death threats, arbitrary and unlawful detention and violence against detainees and other prisoners are seldom properly investigated and very frequently go unpunished. Members of security forces implicated in gross human rights violations enjoy a high level of impunity, which is incompatible with the Covenant.

314. The Committee is deeply concerned with intolerable conditions in prisons and jails. Such conditions include, first and foremost, overcrowding. The Committee deplores the fact that some convicted persons are not released immediately at the end of their imposed sentences and that fear of reprisals by prison authorities or individual warders inhibits complaints by prisoners and detainees.

315. The Committee is concerned over the practice of trying military police accused of human rights violations before military courts and regrets that jurisdiction to deal with these cases has not yet been transferred to the civilian courts.

316. The Committee is concerned with threats against members of the judiciary that compromise the independence and impartiality of the judiciary which is fundamental to the rights protected under article 14 of the Covenant.

317. The Committee notes with concern that where members of State security forces are accused of human rights violations witnesses are not afforded protection against reprisals, intimidation, threats and harassment.

318. The Committee expresses its concern over the situation of women who, despite some improvements, continue to be the subject of de jure and de facto discrimination, including discrimination in access to the labour market. It shares the concern of the State party that violence against women remains a major problem to be more effectively addressed.

319. The Committee is concerned about the widespread problem of forced labour and debt bondage, especially in the rural areas. The grave problems of child labour and child prostitution remain matters of deep concern of the Committee.

320. The Committee is particularly concerned over the existence of racial and other discrimination against black and indigenous persons. It notes that the Government has been pursuing a process of demarcation of indigenous lands in

Brazil as a means of addressing the rights of the indigenous communities, but regrets that the process is far from completion.

5. Suggestions and recommendations

321. The Committee urges the State party to ensure that the provisions of the Covenant are fully implemented in all parts of its territory in accordance with its obligations under articles 2 and 50.

322. The Committee acknowledges the Federal Government's commitment to ensuring that national legislation is in full conformity with the provisions of the Covenant and trusts that it will continue to give high priority to the adoption and implementation of amendments to existing laws and the new legal codes proposed in order to ensure compliance with the State party's international human rights obligations.

323. The Committee welcomes the proposed bill (No. 4.716-A/94) defining torture as a specific crime and the bill (PL 2801/92) that will transfer from the military to the civilian system of justice the competence to try members of the military police accused of human rights violations against civilians. It urges the State party to ensure speedy enactment of these bills.

324. The Committee urges the Government of Brazil to take immediate and effective steps to prevent and combat human rights violations by members of the security forces, especially cases of summary and arbitrary executions, torture, excessive use of force and arbitrary detention. These steps should include the education and sensitization of law enforcement officials, particularly the military police, about human rights. Campaigns and programmes should be developed accordingly and the systematic incorporation of human rights education in all training activities ensured.

325. It is imperative that stringent measures be adopted to address the issue of impunity by ensuring that allegations of human rights violations are promptly and thoroughly investigated, that the perpetrators are prosecuted, that appropriate punishments be imposed on those convicted, and that victims be adequately compensated. The State party should ensure that members of the security forces convicted of serious offences be permanently removed from the forces and that those members of the forces against whom allegations of such offences are being investigated be suspended from their posts pending completion of the investigation.

326. Immediate steps should be taken to ensure that convicted persons are released without delay on completion of their sentences.

327. The Committee strongly recommends that all complaints of misconduct by members of security forces be investigated by an independent body and not by the security forces themselves. Formal mechanisms for receipt and investigation of such complaints should be established in all areas of the country and their existence publicized. Such mechanisms must make provision for effective protection of complainants and witnesses against intimidation and reprisals.

328. In light of the statement in the State party's report that the general level of infant mortality is still high the State party must strengthen measures to reduce that level.

329. The Committee recommends that the State party continue its consideration of further ways to improve the effectiveness of the judicial process. The Government should consider the establishment of small claims courts and petty offences courts that would help to reduce the backlog of cases pending before the courts.

330. The Committee stresses the duty of the State party, under article 10 of the Covenant, to ensure that all persons deprived of their liberty will be treated with humanity and respect for the inherent dignity of the human person. Given the information provided in the State party's report about the intolerable conditions of prisons and jails, especially as regards overcrowding, the State party is under an obligation to adopt measures that will ensure compliance with article 10. Measures to reduce overcrowding might include adoption of alternative sentencing measures that would allow some convicted persons to serve their sentences in the community. To the extent that overcrowding cannot be solved by reducing the number of persons imprisoned or detained, the State party is obligated to commit greater resources to enlarge the capacity of the penitentiary system. Steps must also be taken to ensure that effective programmes are in place for the social rehabilitation and reformation of prison inmates.

331. The Committee strongly recommends that regular training courses on human rights be held for lawyers, prosecutors and judges.

332. The Committee recommends adoption of legislation that will prohibit discrimination on all the grounds covered by article 2 (1) of the Covenant. The provisions of domestic legislation regulating the legal age of maturity in civil life and the right of every citizen to have access to public service should be reviewed so as to ensure their conformity with the relevant provisions of the Covenant, namely articles 2 (1), 16 and 25.

333. The Committee is of the opinion that the distinction between Brazilian-born and naturalized Brazilian citizens, adopted in article 12 (3) of the Constitution as a criterion of access to certain positions in public life, is incompatible with articles 2 and 25 of the Covenant and needs to be addressed accordingly by the State party.

334. The Committee is of the opinion that multiplicity of trade unions should be possible under the law, as required by article 22 of the Covenant.

335. The Committee recommends that the State party put in place effective enforcement mechanisms that will ensure the implementation of Law No. 9.029 prohibiting the requirement of pregnancy and sterilization certificates and other discriminatory practices in employment. It urges that bill No. 382-B/91 concerning equality of access to the labour market be adopted without further delay. The Committee trusts that the proposals contained in the Brazilian National Human Rights Plan, relating to the combating of violence against women, will be fully implemented without delay.

336. The Committee urges the State party to enforce laws prohibiting forced labour, child labour and child prostitution and to implement programmes to prevent and combat such human rights abuses. In addition, the Committee exhorts the State party to establish more effective supervisory mechanisms to ensure compliance with the provisions of national legislation and relevant international standards. It is imperative that persons who are responsible for, or who directly profit from, forced labour, child labour and child prostitution, be severely punished under law.

337. The Committee recommends that the State party take immediate steps to guarantee the rights of individuals belonging to racial minorities and indigenous communities, especially with regard to their access to quality health services and education. Such steps should ensure greater school enrolment and reduce the incidence of school drop-out. It is the view of the Committee that, in light of article 27 of the Covenant, all necessary measures should be taken to ensure that the process of demarcation of indigenous lands be speedily and justly settled.

338. The Committee recommends that the State party accede to both Optional Protocols to the International Covenant on Civil and Political Rights.

K. Peru

339. The Committee initiated its consideration of the third periodic report of Peru (CCPR/C/83/Add.1 and HRI/CORE/1/Add.43/Rev.1) at its 1519th to 1521st meetings, on 18 and 19 July 196 (CCPR/C/SR.1519 to 1521), at which it dealt with urgent issues relating to the implementation of articles 2, 4, 6, 7, 9, 10, 14 and 27 of the Covenant. Further consideration of the report was adjourned to the fifty-eighth session of the Committee, to be held at the United Nations Office at Geneva from 21 October to 8 November 1996. In the light of the examination of the first part of the report and the comments made by its members, the Committee, at its 1528th meeting, on 25 July 1996, adopted the following preliminary comments and recommendations:

1. Introduction

340. The Committee welcomes the third periodic report submitted by the State party and welcomes the delegation's willingness to engage in a dialogue with the Committee. The Committee regrets, however, that although the report and the additional written and oral information provided by the delegation of Peru in answer to the questions raised by the Committee provided information on general legislative norms in Peru, it largely failed to deal with the actual state of implementation of the Covenant in practice and the difficulties encountered in the course of implementation. The Committee appreciated the presence of a high-level delegation which provided helpful information to the Committee in addressing some of its questions and thus allowed it to obtain a somewhat clearer view of the overall human rights situation in the State party.

2. Factors and difficulties affecting the implementation of the Covenant

341. The Committee is aware that Peru has been plagued by terrorist activities, internal disorder and violence. The Committee affirms the right and duty of the State party to take firm measures to protect its population against terror. However, many of the measures adopted by the Government have frustrated implementation of the rights protected under the Covenant.

3. Positive aspects

342. The Committee notes that there seems to be a trend towards reducing the level of violence within the country, a significative diminution of the number of reported disappearances and the return of internally displaced persons to their residence. The Committee expresses the hope that this trend will lead to the full restoration of the rule of law and a return to normalcy in the political and social life of the nation. In this connection, it welcomes recent laws modifying the anti-terrorist laws to permit, inter alia, representation by human rights lawyers of multiple defendants suspected of terrorism and drug trafficking and cross-examination by lawyers of police and security personnel. The Committee also welcomes the decree modifying Decree Law 25,475, by which an accused person whose acquittal has been annulled by the Supreme Court and so has to be retried, is no longer required automatically to be detained; the courts can place on him an obligation to appear for his new trial.

343. The Committee notes with satisfaction the establishment of the Office of the Public Ombudsman and the National Registry of Detainees. In this regard, it

notes the delegation's statement that the Office of the Public Ombudsman though not yet fully functional is already receiving and investigating complaints of human rights violations. It notes with satisfaction that, following the adoption of the 1993 Constitution, the members of the Constitutional Court have now been appointed and the Court is now in position to exercise its functions.

344. The Committee further welcomes the adoption of Decree Law 26,447, which as of April 1995 raised the age of criminal responsibility from 15 to 18 years of age, as well as of Decree law 25,398 which repealed the repentance law, and Decree Law 26,248 which restored habeas corpus.

345. With respect to article 27, the Committee welcomes action taken to protect the rights of indigenous communities, including efforts to provide education in national and native languages, promote economic development and establish other mechanisms for their protection.

4. Principal subjects of concern

346. The Committee deplores that its suggestions and recommendations contained in the concluding comments adopted at the end of the consideration of Peru's second periodic report and supplementary reports (CCPR/C/79/Add.8) have not been implemented.

347. The Committee is deeply concerned that the amnesty granted by Decree Law 26,479 on 14 June 1995 absolves from criminal responsibility and, as a consequence, from all forms of accountability, all military, police and civilian agents of the State who are accused, investigated, charged, processed or convicted for common and military crimes for acts occasioned by the "war against terrorism" from May 1980 until June 1995. It also makes it practically impossible for victims of human rights violations to institute successful legal action for compensation. Such an amnesty prevents appropriate investigation and punishment of perpetrators of past human rights violations, undermines efforts to establish respect for human rights, contributes to an atmosphere of impunity among perpetrators of human rights violations, and constitutes a very serious impediment to efforts undertaken to consolidate democracy and promote respect for human rights and is thus in violation of article 2 of the Covenant. In this connection, the Committee reiterates its view, as expressed in its General Comment 20 (44), that this type of amnesty is incompatible with the duty of States to investigate human rights violations, to guarantee freedom from such acts within their jurisdiction, and to ensure that they do not occur in the future.

348. In addition, the Committee expresses serious concern in relation to the adoption of Decree law 26,492 and Decree law 26,6181, which purport to divest individuals of the right to have the legality of the amnesty law reviewed in courts. With regard to article 1 of this law, declaring that the Amnesty Law does not undermine the international human rights obligations of the State, the Committee stresses that domestic legislation cannot modify a State party's international obligations under the Covenant.

349. The Committee notes with concern that provisions of article 4 of the Covenant have often been disregarded during the reporting period in that rights which are allowed to be derogated from only in time of officially proclaimed state of emergency have been, and still are, restricted without the conditions of derogation being met.

350. The Committee expresses its deepest concern about Decree Law 25,475 and Decree Law 25,659, which seriously impair the protection of the rights contained in the Covenant for persons accused of terrorism and contradicts in many respects the provisions of article 14 of the Covenant. Decree Law 25,475 contains a very broad definition of terrorism under which innocent persons have been and remain detained. It establishes a system of trial by "faceless judges", where the defendants do not know who are the judges trying them and are denied public trials, and which places serious impediments, in law and in fact, to the possibility for defendants to prepare their defence and communicate with their lawyers. Under Decree Law 25,659, cases of treason are tried by military courts, regardless of whether the defendant is a civilian or a member of the military or security forces. In this connection, the Committee expresses its deep concern that persons accused of treason are being tried by the same military force that detained and charged them, that the members of the military courts are active duty officers, that most of them have not received any legal training and that, moreover, there is no provision for sentences to be reviewed by a higher tribunal. These shortcomings raise serious doubts about the independence and impartiality of the judges of military courts. The Committee emphasizes that trials of non-military persons should be conducted in civilian courts before an independent and impartial judiciary.

351. While taking note of bills aiming at granting pardon to some categories of persons convicted for terrorism and treason, the Committee is concerned by the absence of systematic review of the convictions pronounced as a result of trials before the military courts in trials which have not met the requirement of a fair trial as specified in article 14 of the Covenant.

352. The Committee notes with concern that the judges retire at the expiration of seven years and require recertification for reappointment, a practice which tends to affect the independence of the judiciary by denying security of tenure.

353. The Committee notes with deep concern the extension of the death penalty in the 1993 Constitution to a wider range of activities than in the 1979 Constitution. The Committee recalls its General Comment 6 (1982) on article 6 in which it indicated that States are obliged to abolish the death penalty for other than the most serious crimes. Extension of the scope of application of the death penalty raises questions as to the compatibility with article 6 of the Covenant.

354. The Committee expresses its deepest concern with respect to the cases of disappearances, summary executions, torture, ill-treatment and arbitrary arrest and detention by members of the army and security forces, and by the Government's failure to investigate fully these cases, to prosecute alleged offences, to punish those found guilty and provide compensation to the victims and their families. The Committee is particularly concerned at the failure to resolve the high number of cases of past disappearances.

355. The Committee is deeply concerned by persistent reports of torture or cruel, inhuman or degrading treatment of persons detained under suspicion of involvement in terrorist activities or other criminal activities. It regrets the failure of the State party to provide the Committee with detailed information on the measures adopted to prevent torture and cruel, degrading or inhuman treatment, and to punish those responsible. It draws attention to the legislation which permits incommunicado detention in certain cases. In this connection, the Committee reiterates its view, as expressed in its General Comment 20 on article 7, that incommunicado detention is conducive to torture and that, consequently, this practice should be avoided.

356. The Committee takes note with concern that provisions in article 2, paragraph 24 (f), of the Constitution, which permits preventive detention for up to 15 days in cases of terrorism, espionage and illicit drug-trafficking, as well as Decree Law 25,475, which authorizes extension of preventive detention in certain cases for up to 15 days, raise serious issues with regard to article 9 of the Covenant.

357. The Committee takes note of Decree Law 25,499 of 1992, according to which repentance of one's association with a terrorist organization and information concerning such organizations or which lead to the identification of other persons involved can lead to a reduction in his or her sentence. The Committee is concerned that this law may have been used by individuals to denounce innocent persons in order to avoid prison sentences or to reduce the duration, a concern that is supported by the fact that there are at least seven draft proposals - one of them from the Defensor Público and another from the Ministry of Justice - and a Decree Law 26,329 attempting to solve the problem of innocent people being prosecuted or having been convicted under the anti-terrorist laws.

5. Suggestions and recommendations

358. The Committee recommends that necessary steps be taken to restore the authority of the judiciary, give effect to the right to effective remedy under article 2 of the Covenant and thus overcome the prevailing atmosphere of impunity. In view of the fact that the Committee considers that the amnesty laws violate the Covenant, it recommends that the Government of Peru review and repeal these laws to the extent of such violations. In particular, it urges the Government to remedy the unacceptable consequences of these laws by, inter alia, establishing an effective system of compensation for the victims of human rights violations and by taking the necessary steps to ensure that the perpetrators of these violations do not continue to hold government positions.

359. The Committee urges the State party to take immediate measures with a view to release innocent prisoners and to provide them with compensation, to systematically revise, on a non-discretionary basis, convictions handed down by the military tribunals in treason and terrorism cases, particularly convictions based on lack of identification documents or on evidence obtained in the application of the repentance law. The same applies to detainees awaiting trial.

360. The Committee urges the State party to take effective measures to investigate allegations of summary executions, disappearances, cases of torture and ill-treatment, and arbitrary arrest and detention, to bring the perpetrators to justice, to punish them and to compensate victims. If allegations of such crimes have been made against members of the security forces, whether military or civilian, the investigations should be carried out by an impartial body that does not belong to the organization of the security forces themselves. Persons convicted of such crimes should be dismissed and, pending the outcome of the investigation, be suspended from office.

361. Urgent measures should be taken to strictly limit incommunicado detention. Provisions should be made in the Penal Code to criminalize acts that are committed for the purpose of inflicting pain, without prejudice as to whether those acts result in permanent injury.

362. The duration of preventive detention should be reasonable and any arrested person should be brought promptly before a judge.

363. The Committee particularly urges that the system of "faceless judges" be abolished and that public trials for all defendants, including those charged with terrorist-related activities, be reinstated immediately. The Government of Peru should ensure that all trials are conducted with full respect for the safeguards of fair trial provided by article 14, including in particular the right to communicate with counsel and the right to have time and facilities to prepare the defence and the right to have the conviction reviewed.

364. In addition, the Committee recommends that the requirement for judges to be recertified be reviewed and replaced by a system of secure tenure and independent judicial supervision. During the reform process being undertaken in the judicial order, the Committee recommends that every effort be made to ensure the independence and impartiality of the judiciary.

VI. GENERAL COMMENTS OF THE COMMITTEE

Work on general comments

365. At its 1510th meeting (fifty-seventh session), the Committee adopted General Comment No. 25 (57) on article 25 of the Covenant which it had previously considered at the 1384th, 1385th, 1399th, 1414th, 1422nd, 1423rd, 1447th, 1448th, 1460th, 1492nd, 1493rd, 1500th, 1501st, 1509th and 1510th meetings on the basis of a draft that had initially been submitted to the Committee by the working group on article 40, which had met before the fifty-first session. Pursuant to the request of the Economic and Social Council, the Committee decided to transmit the text of the general comment to the Council at its substantive session in 1997.

366. At its fifty-sixth session, the Committee decided to begin work on the updating of General Comment No. 4 (13) on article 3 of the Covenant and to prepare new general comments on articles 2 and 12 of the Covenant and, subsequently, on articles 21 and 22 of the Covenant.

367. The Committee received comments under article 40, paragraph 5, of the Covenant, concerning its General Comment No. 24 (52) on issues relating to reservations made upon ratification of or accession to the Covenant or the Optional Protocols thereto, or relating to statements made under article 41 of the Covenant. These comments, which were transmitted by France, are contained in annex V to this report.

VII. CONSIDERATION OF COMMUNICATIONS UNDER THE OPTIONAL PROTOCOL

368. Individuals who claim that any of their rights under the International Covenant on Civil and Political Rights have been violated, and who have exhausted all available domestic remedies, may submit written communications to the Human Rights Committee for consideration under the Optional Protocol. Of the 134 States that have ratified or acceded to the Covenant, 88 have accepted the Committee's competence to deal with individual complaints by becoming parties to the Optional Protocol. Since the Committee's last report to the General Assembly, four States have ratified or acceded to the Optional Protocol: Croatia, Malawi, Uganda and Uzbekistan. No communication can be examined by the Committee if it concerns a State party to the Covenant that is not also a party to the Optional Protocol.

369. Consideration of communications under the Optional Protocol is confidential and takes place in closed meetings (article 5, paragraph 3, of the Optional Protocol). All documents pertaining to the work of the Committee under the Optional Protocol (submissions from the parties and other working documents of the Committee) are confidential. Rules 96 to 99 of the Committee's rules of procedure regulate the confidentiality of documents. The texts of final decisions of the Committee, consisting of Views adopted unde article 5, paragraph 4, of the Optional Protocol, are, however, made public. As regards decisions declaring a communication inadmissible (which are also final), the Committee has decided that it will normally make these decisions public. In this connection, the Committee set up an ad hoc working group to study its methods of work and, *inter alia*, the question of the confidentiality of submissions from the parties.

A. Progress of work

370. The Committee started its work under the Optional Protocol at its second session, in 1977. Since then, 716 communications concerning 51 States parties have been registered for consideration by the Committee, including 70 placed before it during the period covered by the present report.

371. The status of the 716 communications registered for consideration by the Human Rights Committee so far is as follows:

(a) Concluded by Views under article 5, paragraph 4, of the Optional Protocol: 239;

(b) Declared inadmissible: 224;

(c) Discontinued or withdrawn: 115;

(d) Declared admissible, but not yet concluded: 42;

(e) Pending at the pre-admissibility stage: 96.

372. In addition, the secretariat of the Committee has approximately 400 communications on file, in respect of which the authors have been advised that further information would be needed before their communications could be registered for consideration by the Committee. The authors of a number of additional communications have been informed that their cases will not be

submitted to the Committee, as they fall clearly outside the scope of the Covenant or appear to be frivolous.

373. Two volumes containing selected decisions of the Human Rights Committee under the Optional Protocol, from the second to the sixteenth sessions and from the seventeenth to the thirty-second sessions, respectively, have been published (CCPR/C/OP/1 and 2).

374. During the fifty-fifth to fifty-seventh sessions, the Committee concluded consideration of 29 cases by adopting Views thereon. These are cases Nos. 373/1989 (Stephens v. Jamaica), 390/1990 (Lubuto v. Zambia), 422-424/1990 (Aduayom et al. v. Togo), 434/1990 (Seerattan v. Trinidad and Tobago), 454/1991 (Pons v. Spain), 459/1991 (Wright and Harvey v. Jamaica), 461/1991 (Morrison and Graham v. Jamaica), 480/1991 (Fuenzalida v. Ecuador), 505/1992 (Ackla v. Togo), 512/1992 (Pinto v. Trinidad and Tobago), 519/1992 (Marriott v. Jamaica), 521/1992 (Kulomin v. Hungary), 523/1992 (Neptune v. Trinidad and Tobago), 527/1993 (Lewis v. Jamaica), 539/1993 (Kelly v. Jamaica), 540/1993 (Celis Laureano v. Peru), 542/1993 (Tshishimbi v. Zaire), 546/1993 (Burrell v. Jamaica), 563/1993 (Bautista v. Colombia), 566/1993 (Somers v. Hungary), 571/1994 (Henry and Douglas v. Jamaica), 586/1994 (Adam v. Czech Republic), 588/1994 (Johnson v. Jamaica), 589/1994 (Tomlin v. Jamaica), 596/1994 (Chaplin v. Jamaica), 597/1994 (Grant v. Jamaica), 598/1994 (Sterling v. Jamaica), 599/1994 (Spence v. Jamaica) and 600/1994 (Hylton v. Jamaica). The texts of the Views in these 29 cases are reproduced in annex VIII.

375. The Committee also concluded consideration of 11 cases by declaring them inadmissible. These are cases Nos. 472/1991 (J. P. L. v. France), 557/1993 (X v. Australia), 573/1994 (Atkinson et al. v. Canada), 584/1994 (Valentijn v. France), 608/1995 (Nahlik v. Austria), 638/1995 (Lacika v. Canada), 645/1995 (Bordes et al. v. France), 656/1995 (V. E. M. v. Spain), 657/1995 (van der Ent v. the Netherlands), 660/1995 (Koning v. the Netherlands) and 664/1995 (Kruyt-Amesz et al. v. the Netherlands). The texts of these decisions are reproduced in annex IX.

376. During the period under review, 23 communications were declared admissible for examination on the merits. Decisions declaring communications admissible are not made public. Consideration of seven cases was discontinued. Procedural decisions were adopted in a number of pending cases (under article 4 of the Optional Protocol or under rules 86 and 91 of the Committee's rules of procedure). The Committee requested Secretariat action in other pending cases.

B. Growth of the Committee's caseload under the Optional Protocol

377. As the Committee has already stated in previous annual reports, the increasing number of States parties to the Optional Protocol and better public awareness of the Committee's work under the Optional Protocol have led to a growth in the number of communications submitted to it. In addition, the Secretariat took action on several hundred cases which, for one reason or another, were not registered under the Optional Protocol and placed before the Committee. Furthermore, follow-up activities are required in the majority of the 181 cases in which the Committee found violations of the Covenant. This workload means that the Committee can no longer examine communications expeditiously. In this connection the Committee also notes that an increasing number of communications is being submitted in languages which are not among the working languages of the Secretariat, and expresses its concern about the

consequent delays in the examination of such communications. The Committee, while fully aware of the financial crisis besetting the Organization, nevertheless emphasizes that it should be guaranteed the necessary resources for the effective consideration of communications, and that these especially should be dealt with by staff specializing in the various legal systems.

C. Approaches to examining communications under the Optional Protocol

1. Special Rapporteur on new communications

378. At its thirty-fifth session, the Committee decided to designate a Special Rapporteur to process new communications as they were received, i.e. between sessions of the Committee. Mrs. Rosalyn Higgins served as Special Rapporteur for a period of two years. She was succeeded as Special Rapporteur by Mr. Rajsoomer Lallah (forty-first to forty-sixth sessions) and by Mrs. Christine Chanet (forty-seventh to fifty-second sessions). At the Committee's fifty-third session, Mr. Fausto Pocar was designated to succeed Mrs. Chanet as Special Rapporteur. In the period covered by this report, the Special Rapporteur has transmitted 62 new communications to the States parties concerned under rule 91 of the Committee's rules of procedure, requesting information or observations relevant to the question of admissibility. Regarding other communications, the Special Rapporteur recommended to the Committee that the communications be declared inadmissible without forwarding them to the State party. In other cases, the Special Rapporteur issued requests for interim measures of protection pursuant to rule 86 of the Committee's rules of procedure.

2. Competence of the Working Group on Communications

379. At its thirty-sixth session, the Committee decided to authorize the Working Group on Communications to adopt decisions declaring communications admissible when all five members so agreed. Failing such agreement, the Working Group would refer the matter to the Committee. It could also do so whenever it believed that the Committee itself should decide the question of admissibility. While the Working Group could not adopt decisions declaring communications inadmissible, it might make recommendations in that respect to the Committee. Pursuant to those rules, the Working Group on Communications that met prior to the fifty-fifth, fifty-sixth and fifty-seventh sessions of the Committee declared 22 communications admissible.

380. At its fifty-fifth session, the Committee decided that each communication would be entrusted to a member of the Committee, who would act as rapporteur for it in the working group and in the plenary Committee. In performing his task, the rapporteur consults the whole of the file, if necessary at the previous session. At the fifty-seventh session, the Committee decided that the rapporteur responsible for the communication would consider the action to be taken on last-minute information communicated by the author or by the State party.

381. In that regard, at its fifty-fifth session the Committee declared that the competence of the Special Rapporteur to issue, and if necessary to withdraw, requests for interim measures under rule 86 of the rules of procedure would continue until the Working Group on Communications took up the question of admissibility; subsequently, when the Committee was not in session, that

competence would be exercised by the Chairman until the Working Group on Communications considered the substance of the case, in consultation where necessary with the Special Rapporteur.

3. Joinder of admissibility and merits

382. At its fifty-fourth session, the Committee decided that it would in future join the consideration of admissibility and merits of communications when both parties consented and the Committee considered it appropriate. Consequently, in the period covered by this report, the Committee declared three communications admissible and adopted its Views thereon (communications Nos. 588/1994 (Johnson v. Jamaica), 596/1994 (Chaplin v. Jamaica) and 597/1994 (Grant v. Jamaica)).

D. Individual opinions

383. In its work under the Optional Protocol, the Committee strives to arrive at its decisions by consensus. However, pursuant to rule 94, paragraph 3, of the Committee's rules of procedure, members can add their individual concurring or dissenting opinions to the Committee's Views. Pursuant to rule 92, paragraph 3, members can append their individual opinions to the Committee's decisions declaring communications inadmissible.

384. During the sessions covered by the present report, individual opinions were appended to the Committee's Views in cases Nos. 390/1990 (Lubuto v. Zambia), 422-424/1990 (Aduayom et al. v. Togo), 521/1992 (Kulomin v. Hungary), 527/1993 (Lewis v. Jamaica), 586/1994 (Adam v. Czech Republic), 588/1994 (Johnson v. Jamaica), 596/1994 (Chaplin v. Jamaica), 599/1994 (Spence v. Jamaica) and 600/1994 (Hylton v. Jamaica). An individual opinion was also appended to the Committee's inadmissibility decision regarding the case No. 608/1995 (Nahlik v. Austria).

E. Issues considered by the Committee

385. A review of the Committee's work under the Optional Protocol from its second session in 1977 to its fifty-fourth session in 1995 can be found in the Committee's annual reports for 1984 to 1995, which, *inter alia*, contain summaries of the procedural and substantive issues considered by the Committee and of the decisions taken. The full texts of the Views adopted by the Committee and of its decisions declaring communications inadmissible under the Optional Protocol have been reproduced regularly in annexes to the Committee's annual reports.

386. The following summary reflects further developments on issues considered during the period covered by the present report.

1. Procedural issues

(a) No claim under article 2 of the Optional Protocol

387. Article 2 of the Optional Protocol provides that "individuals who claim that any of their rights enumerated in the Covenant have been violated and who have exhausted all available domestic remedies may submit a written communication to the Committee for consideration".

388. Although an author does not need to prove the alleged violation at the admissibility stage, he must submit sufficient evidence substantiating his allegation for purposes of admissibility. A "claim" is, therefore, not just an allegation, but an allegation supported by a certain amount of substantiating evidence. Thus, in cases where the Committee finds that the author has failed to substantiate his claim for purposes of admissibility, the Committee has held the communication inadmissible, under rule 90 (b) of its rules of procedure, declaring that the author "has no claim under article 2 of the Optional Protocol".

389. Cases declared inadmissible, inter alia, for lack of substantiation of the claim or failure to advance a claim, are communications Nos. 472/1991 (J. P. L. v. France), 638/1995 (Lacika v. Canada), 656/1995 (V. E. M. v. Spain), 657/1995 (van der Ent v. the Netherlands) and 660/1995 (Koning v. the Netherlands).

(b) Competence of the Committee and incompatibility with the provisions of the Covenant (Optional Protocol, art. 3)

390. In its work under the Optional Protocol, the Committee has on several occasions had to point out that it is not an instance of final recourse intended to review or reverse decisions of domestic courts and that it cannot be used as a forum for pursuing a complaint on the basis of domestic law.

391. In communication No. 664/1995 (Kruyt-Amesz et al. v. the Netherlands), the Committee referred to its established jurisprudence that interpretation of domestic legislation is essentially a matter for the courts and authorities of the State party concerned (see annex IX, sect. H, para. 4.2).

(c) The requirement of exhaustion of domestic remedies (Optional Protocol, art. 5, para. 2 (b))

392. Pursuant to article 5, paragraph 2 (b), of the Optional Protocol, the Committee shall not consider any communication unless it has ascertained that the author has exhausted all available domestic remedies. However, the Committee has already established that the rule of exhaustion applies only to the extent that these remedies are effective and available. The State party is required to give "details of the remedies which it submitted that had been available to the author in the circumstances of his case, together with evidence that there would be a reasonable prospect that such remedies would be effective" (case No. 4/1977 (Torres Ramírez v. Uruguay)). The rule also provides that the Committee is not precluded from examining a communication if it is established that the application of the remedies in question is unreasonably prolonged. In certain cases, a State party may waive before the Committee the requirement of exhaustion of domestic remedies. Communications Nos. 557/1993 (X v. Australia), 573/1994 (Atkinson et al. v. Canada) and 584/1994 (Valentijn v. France) were declared inadmissible for failure to pursue available and effective domestic remedies.

(d) Inadmissibility ratione temporis

393. As at its previous sessions, the Committee has had to consider communications relating to events which occurred before the entry into force of the Optional Protocol for the State concerned. In cases of this type, the admissibility criterion applied by the Committee is whether the events in question have, since the entry into force of the Optional Protocol, had persistent effects which in themselves constitute violations of the Covenant. At its fifty-sixth session, the Committee considered this question in case

No. 505/1992 (Ackla v. Togo) and noted that "the author's claims under article 7, 9 and 10, paragraph 1, of the Covenant related to events that occurred prior to 30 June 1988, the date of entry into force of the Optional Protocol for the State party. In this respect, therefore, the Committee decided that the communication was inadmissible ratione temporis" (annex VIII, sect. 9, para. 6.2).

394. At its fifty-seventh session, the Committee considered a number of communications involving factual situations with roots in events that occurred prior to the entry into force of the Covenant and of the Optional Protocol. In communication No. 586/1994 (Adam v. Czech Republic), the Committee examined whether the failure by the State party to provide compensation for confiscations that occurred in 1949 could raise issues under the Optional Protocol. It found "that although the confiscations took place before the entry into force of the Covenant and of the Optional Protocol for the Czech Republic, the new legislation that excludes claimants who are not Czech citizens has continuing consequences subsequent to the entry into force of the Optional Protocol for the Czech Republic, which could entail discrimination violation of article 26 of the Covenant" (annex VIII, sect. 22, para. 6.3). At the same session the Committee, when examining the merits of communications Nos. 422-424/1990 (Aduayom et al. v. Togo) reiterated that its jurisprudence has been not to entertain claims under the Optional Protocol based on events which occurred after entry into force of the Covenant but before entry into force of the Optional Protocol for the State party. In the instant case, however, the Committee does not find any elements which would allow it to make a finding under the Optional Protocol on the lawfulness of the authors' arrest, since the arrests of the authors took place in September and December 1985, respectively, and they were released in April and July 1986, respectively, prior to the entry into force of the Optional Protocol for Togo on 30 June 1988. Accordingly, the Committee is precluded ratione temporis from examining the claim under article 9, paragraph 5 (annex VIII, sect. 3, para. 7.3). One Committee member appended a dissenting opinion to the Views.

(e) Interim measures under rule 86

395. Under rule 86 of the Committee's rules of procedure, the Committee may, after receipt of a communication and before adopting its Views, request a State party to take interim measures in order to avoid irreparable damage to the victim of the alleged violations. The Committee has applied this rule on several occasions, mostly in cases submitted by or on behalf of persons who have been sentenced to death and are awaiting execution, and who claim that they were denied a fair trial. In view of the urgency of the communications, the Committee has requested the States parties concerned not to carry out the death sentences while the cases are under consideration. Stays of execution have specifically been granted in this connection. Rule 86 has also been applied in other circumstances, for instance in cases of imminent deportation or extradition.

2. Substantive issues

(a) Right to life (Covenant, art. 6)

396. Article 6, paragraph 1, protects the right to life. In General Comment 6 [16] the Committee has expressed its view that States parties should take specific and effective measures to prevent the disappearance of individuals and establish effective facilities and procedures to investigate, thoroughly, by an

appropriate and impartial body, cases of missing persons and enforced disappearances in circumstances that may involve a violation of the right to life. In cases Nos. 540/1993 (Celis Laureano v. Peru) and 563/1993 (Bautista v. Colombia), the Committee found a violation of article 6, paragraph 1, because the State party was held responsible for the disappearance of the individuals on whose behalf the communications had been submitted.

397. Article 6, paragraph 2, states that the death sentence may only be imposed for the "most serious crimes". In case No. 390/1990 (Lubuto v. Zambia), the complainant had been convicted and sentenced to death for aggravated robbery with the use of firearms. The Committee, considering that in the particular case no one had been killed or wounded and that the court under the law could not take these elements into account when sentencing, was of the view that the mandatory imposition of the death penalty under those circumstances was in violation of article 6, paragraph 2, of the Covenant (annex VIII, sect. 2, para. 7.2).

398. Article 6, paragraph 2, provides also that a sentence of death may be imposed only if not contrary to the provisions of the Covenant. Thus, a nexus is established between the imposition of a sentence of death and observance by State authorities of guarantees under the Covenant. Accordingly, in cases where the Committee found that the State party had violated article 14 of the Covenant, in that the author had been denied a fair trial and appeal, the Committee held that the imposition of the sentence of death also entailed a violation of article 6. In its Views in case No. 459/1991 (Wright and Harvey v. Jamaica), the Committee observed:

> "The Committee is of the opinion that the imposition of a sentence of death upon conclusion of a trial in which the provisions of the Covenant have not been respected constitutes, if no further appeal against the sentence is possible, a violation of article 6 of the Covenant. As the Committee noted in its General Comment 6(16), the provision that a sentence of death may be imposed only in accordance with the law and not contrary to the provisions of the Covenant implies that 'the procedural guarantees therein prescribed must be observed, including the right to a fair hearing by an independent tribunal, the presumption of innocence, the minimum guarantees for the defence, and the right to review of conviction and sentence by a higher tribunal'" (annex VIII, sect. 6, para. 10.6).

399. Having concluded that the final sentence of death had been imposed after a trial that failed to comply fully with the requirements of article 14, the Committee found that the right protected by article 6 had been violated. The Committee reached a similar conclusion in communication No. 461/1991 (Graham and Morrison v. Jamaica).

(b) The right not to be subjected to torture or to cruel, inhuman or degrading treatment (Covenant, art. 7)

400. Article 7 of the Covenant provides that no one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

401. Case No. 540/1993 (Celis Laureano v. Peru) concerned a girl who had disappeared and had no contact with her family or with the outside world. In these circumstances, the Committee concluded that the abduction and disappearance of the victim and prevention of contact with her family and the outside world constituted cruel and inhuman treatment, in violation of article 7 of the Covenant (annex VIII, sect. 16, para. 8.5).

402. A similar conclusion was reached in case No. 542/1993 (Tshishimbi v. Zaire). In case No. 563/1993 (Bautista v. Colombia), the Committee found a violation of article 7 because of torture before the victim was assassinated.

403. In case No. 373/1989 (Stephens v. Jamaica), the complainant had suffered injuries as a result of use of force by warders on death row. The Committee considered that the State party had failed to justify that these injuries were the results of the use of "reasonable force" by a warder. Further, the State party had failed to investigate the complaint. The Committee concluded that the complainant had been treated in a way contrary to article 7 of the Covenant.

404. In its jurisprudence regarding claims that a prolonged stay on death row constitutes cruel, inhuman and degrading treatment, the Committee has consistently held that the facts and circumstances of each case must be examined to see whether an issue under article 7 arises and that, in the absence of further compelling circumstances, prolonged judicial proceedings do not per se constitute that kind of treatment. (See the Committee's Views in cases Nos. 373/1989 (Stephens v. Jamaica), 461/1991 (Graham and Morrison v. Jamaica) and 596/1994 (Chaplin v. Jamaica).)

405. In case No. 588/1994 (Johnson v. Jamaica), the Committee's jurisprudence was confirmed and further elaborated. In it, the Committee examined in greater detail

> "the implications of holding the length of detention on death row, per se, to be in violation of articles 7 and 10. The first, and most serious, implication is that if a State party executes a condemned prisoner after he has spent a certain period of time on death row, it will not be in violation of its obligations under the Covenant, whereas if it refrains from doing so, it will violate the Covenant. An interpretation of the Covenant leading to this result cannot be consistent with the Covenant's object and purpose. The above implication cannot be avoided by refraining from determining a definite period of detention on death row, after which there will be a presumption that detention on death row constitutes cruel and inhuman punishment. Setting a cut-off date certainly exacerbates the problem and gives the State party a clear deadline for executing a person if it is to avoid violating its obligations under the Covenant. However, this implication is not a function of fixing the maximum permissible period of detention on death row, but of making the time factor, per se, the determining one. If the maximum acceptable period is left open, States parties which seek to avoid overstepping the deadline will be tempted to look to the decisions of the Committee in previous cases so as to determine what length of detention on death row the Committee has found permissible in the past. The second implication of making the time factor per se the determining one, i.e. the factor that turns detention on death row into a violation of the Covenant, is that it conveys a message to States parties retaining the death penalty that they should carry out a capital sentence as expeditiously as possible after it was imposed. This is not a message the Committee would wish to convey to States parties." (annex VIII, sect. 23, paras. 8.3 and 8.4).

406. A number of members dissociated themselves from the majority opinion, particularly through the submission of certain dissenting opinions.

(c) Liberty and security of person (Covenant, art. 9)

407. Article 9, paragraph 1, of the Covenant guarantees to everyone the right to liberty and security of person, and provides that no one shall be subjected to arbitrary arrest or detention. In case No. 542/1993 (Tshishimbi v. Zaire), the victim had disappeared. The Committee recalled that article 9, paragraph 1, may be invoked also outside the context of arrest and detention, and that an interpretation which would allow States parties to tolerate, condone or ignore threats made by persons in authority to the personal liberty and security of non-detained individuals within the State party's jurisdiction would render ineffective the guarantees of the Covenant. In the instant case, the Committee concluded that article 9, paragraph 1, had been violated.

408. Violations of article 9, paragraph 1, were also found in cases Nos. 540/1993 (Celis Laureano v. Peru) and 563/1993 (Bautista v. Colombia).

409. In case No. 597/1994 (Grant v. Jamaica), the complainant had not been informed upon arrest of the charges against him and was only informed seven days after he had been detained. The Committee found that this constituted a violation of article 9, paragraph 2, which provides that anyone who is arrested shall be informed, at the time of his arrest, of the reasons for his arrest and shall be promptly informed of any charges against him (annex VIII, sect. 26, para. 8.1).

410. In case No. 373/1989 (Stephens v. Jamaica), the Committee found that the complainant was brought before a judge or other judicial officer more than eight days after having been taken into custody and considered that this was incompatible with the requirement of article 9, paragraph 3, which provides that anyone arrested or detained on a criminal charge shall be brought promptly before a judge (annex VIII, sect. 1, para. 9.6). A similar conclusion was reached in case No. 597/1994 (Grant v. Jamaica).

(d) Treatment during imprisonment (Covenant, art. 10)

411. Article 10, paragraph 1, prescribes that all persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person. The Committee found a violation of article 10, paragraph 1, in cases Nos. 373/1989 (Stephens v. Jamaica) and 596/1994 (Chaplin v. Jamaica).

(e) Right to liberty of movement (Covenant, art. 12)

412. Article 12, paragraph 1, of the Covenant protects the right to liberty of movement and freedom to choose one's residence of everyone lawfully within the territory of a State. In case No. 505/1992 (Ackla v. Togo), the Committee found a violation of this provision because the complainant had been prohibited from entering the district in which his native village was located, and the State party had failed to provide any explanations justifying this restriction on his freedom of movement.

(f) Guarantees of a fair trial (Covenant, art. 14)

413. Paragraph 3 (b) of article 14 provides that, in the determination of any criminal charge against him, everyone is entitled to have adequate time and facilities for the preparation of his defence and to communicate with counsel of his own choosing. Paragraph 3 (d) provides that everyone is entitled to defend himself in person or through legal assistance, which should be provided free of

charge where the interests of justice so require. In case No. 459/1991 (Wright and Harvey v. Jamaica), counsel for the accused had conceded at the appeal hearing that his client's case had no merit. The Committee considered that while article 14, paragraph 3 (d), did not entitle the accused to choose counsel provided to him free of charge, the Court should ensure that the conduct of the case by the lawyer is not incompatible with the interests of justice. In a capital case, when counsel for the accused concedes that there is no merit in the appeal, the Court should ascertain whether counsel has consulted with the accused and informed him accordingly. If not, the Court must ensure that the accused is so informed and given an opportunity to engage other counsel. In the circumstances, the Committee found a violation of article 14, paragraph 3 (b) and (d) (see annex IX, sect. 6, para. 10.5).

414. A similar violation was found in case No. 461/1991 (Graham and Morrison v. Jamaica).

415. Article 14, paragraph 3 (c), gives every accused person the right to be tried without undue delay. Violations of this provision were found in cases Nos. 390/1990 (Lubuto v. Zambia), 434/1990 (Seerattan v. Trinidad and Tobago), 459/1991 (Wright and Harvey v. Jamaica) and 563/1993 (Bautista v. Colombia).

(g) The right of a minor to protection on the part of his family, society and the State (Covenant, art. 24)

416. Article 24 of the Covenant provides that every child shall have, without any discrimination, the right to such measures of protection as required by his status as a minor, on the part of his family, society and the State. In case No. 540/1993 (Celis Laureano v. Peru), the victim, a minor, had disappeared after having been provisionally released from custody. The Committee considered that the State party's failure to adopt any particular measures to investigate her disappearance and locate her whereabouts to ensure her security and welfare constituted a violation of article 24 (annex IX, sect. 16, para. 8.7).

(h) The right to equality before the law and to equal protection by the law and the prohibition of discrimination

417. Article 26 of the Covenant provides that all persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination.

418. In case No. 454/1991 (Pons v. Spain) the complainant, a civil servant who on occasion worked as a substitute judge, claimed that he was entitled to unemployment benefits upon termination of his assignment, since other unemployed substitute judges also received such benefits. The Committee found that the complainant, as a civil servant being granted special leave to fulfil his assignments as a substitute judge, was not in the same situation as others who were not civil servants and could not immediately return to another post upon termination of their temporary assignments. The Committee found that the facts did not disclose a violation of article 26 of the Covenant (annex IX, sect. 5, para. 9.5).

F. Effective remedy provided by a State party during examination of a communication

419. The procedure established under the Optional Protocol aims at helping victims rather than condemning States parties for violations of the Covenant. The Committee therefore welcomes the early cooperation by States parties in finding solutions to human rights problems.

420. Communication No. 655/1995 was submitted by an individual born in 1949 in Ireland as a British citizen. In 1954, at the age of five, he emigrated to Australia with his parents. He had his schooling in Australia and in 1967 joined the Australian Army, in which he served for five years, including service in Viet Nam, where he was wounded. He had not formally applied for Australian citizenship. In 1981 he left the country in order to travel. When he wished to take up his residence in Australia again in 1990 he was refused re-entry since he was not a citizen and had been outside the country for longer than five years. On 16 May 1995 the author addressed a communication to the Human Rights Committee, claiming a violation by Australia of the right to enter one's own country. The communication was transmitted to the State party on 15 September 1995. In a submission dated 3 May 1996, the State party informed the Committee that it had given the communication close consideration and that "on 8 March 1996 the Australian High Commission in London granted him a Former Resident (class 151) visa which will allow for the author's return to Australia as a permanent resident".

421. The Committee expresses its satisfaction over the cooperation of the State party and the information on the remedy provided by the State party.

G. Remedies called for under the Committee's Views

422. After the Committee has made a finding on the merits, its "Views" under article 5, paragraph 4, of the Optional Protocol, of a violation of a provision of the Covenant, it proceeds to ask the State party to take appropriate steps to remedy the violation. For instance, in case No. 540/1993 (Celis Laureano v. Peru) concerning enforced disappearance, the Committee found as follows:

> "Under article 2, paragraph 3, of the Covenant, the State party is under an obligation to provide the victim and the author with an effective remedy. The Committee urges the State party to open a proper investigation into the disappearance of Ana Rosario Celis Laureano and her fate, to provide for appropriate compensation to the victim and her family, and to bring to justice those responsible for her disappearance, notwithstanding any domestic amnesty legislation to the contrary" (annex VIII, sect. 16, para. 10).

The Committee further observed that:

> "Bearing in mind that, by becoming a party to the Optional Protocol, the State party has recognized the competence of the Committee to determine whether there has been a violation of the Covenant or not and that, pursuant to article 2 of the Covenant, the State party has undertaken to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the Covenant and to provide an effective and enforceable remedy in case a violation has been established, the Committee wishes to receive from the State party, within 90 days,

information about the measures taken to give effect to the Committee's Views." (annex VIII, sect. 16, para. 11).

H. Non-cooperation by States parties in respect of pending cases

423. During the period covered by this report, the following States have offered no cooperation in the Committee's consideration of communications pending under the Optional Protocol relating to them: Peru, Togo and Zaire.

VIII. FOLLOW-UP ACTIVITIES UNDER THE OPTIONAL PROTOCOL

424. From its seventh session, in 1979, to its fifty-seventh session, in July 1996, the Human Rights Committee has adopted 223 (status: end of fifty-sixth session) Views on communications received and considered under the Optional Protocol. The Committee has found violations in 168 (status: end of fifty-sixth session) of them. For many years, however, the Committee was informed by States parties in only a limited number of cases of any measures taken by them to give effect to the Views adopted. Because of lack of knowledge about State party compliance with its decisions, the Committee has devised a mechanism that should enable it to evaluate State party compliance with its Views.

425. During its thirty-ninth session (July 1990), following a thorough debate on the Committee's competence to engage in follow-up activities, the Committee established a procedure whereby it can monitor the follow-up to its Views under article 5, paragraph 4, of the Optional Protocol. At the same time, the Committee created the mandate of a Special Rapporteur for the Follow-Up on Views. His mandate is spelled out in annex XI to the Committee's report to the General Assembly at its forty-fifth session. From the thirty-ninth (July 1990) to the forty-seventh (March 1993) session, the late Mr. János Fodor acted as Special Rapporteur for the Follow-Up on Views. At the forty-seventh session (March 1993), Mr. Andreas Mavrommatis was appointed Special Rapporteur for the Follow-Up on Views. His mandate was extended for another two years at the fifty-third session (March 1995). During its fifty-first session the Committee adopted a new rule of procedure, rule 95, which spells out the mandate of the Special Rapporteur (see the annual report of the Committee for 1994, A/49/40, vol. I, annex VI).

426. Pursuant to his mandate, the Special Rapporteur has requested follow-up information from States parties since the beginning of 1991. Follow-up information has systematically been requested in respect of all Views with a finding of a violation of the Covenant. At the beginning of the Committee's fifty-seventh session, follow-up information had been received in respect of (90) Views. No information had been received in respect of (68) Views; in (10) cases, the deadline for receipt of follow-up information had not yet expired. It may be noted that in many instances, the Secretariat has also received information from authors to the effect that the Committee's Views had not been implemented. Conversely, in some rare instances, the author of a communication has informed the Committee that the State party did give effect to the Committee's recommendations, whereas the State party did not provide this information.

427. Any attempts to categorize follow-up replies are inherently difficult and imprecise. By the beginning of the fifty-seventh session, roughly one third of the replies received thus far can be considered satisfactory, in that they display a willingness, on the part of the State party, to implement the Committee's Views or to offer the applicant an appropriate remedy. Many replies simply indicate that the victim has failed to file a claim for compensation within the statutory deadlines, and that, therefore, no compensation can be paid to the victim. Another category of replies cannot be considered fully satisfactory in that they either do not address the Committee's recommendations at all or merely relate to one aspect thereof. Follow-up replies which respond in substance to the Committee's recommendation or represent substantial compliance will be referred to as "satisfactory" hereafter, and replies which do not respond to the Committee's recommendations, fail to address the Committee's

recommendation to grant compensation to the victim, or constitute less than substantial compliance, will be referred to as "unsatisfactory".

428. The remainder of the replies either explicitly challenge the Committee's findings, on factual or on legal grounds, indicate that the State party will not, for one reason or another, give effect to the Committee's recommendations, promise an investigation of the matter considered by the Committee or constitute much belated submissions on the merits of the case.

429. A country-by-country breakdown of follow-up replies received or requested and outstanding as of 26 July 1996 provides the following picture:

Argentina	One decision finding violations; satisfactory follow-up replies received from the State party, dated 14 August and 27 September 1995 (see para. 455 below).
Australia	One decision finding violations; satisfactory follow-up reply, dated 3 May 1996, received from the State party (see para. 456 below).
Austria	One decision finding violations; unsatisfactory follow-up reply, dated 11 August 1992, received from the State party.
Bolivia	Two Views finding violations; no follow-up reply received so far, in spite of reminders addressed to the State party on 9 December 1994. Follow-up consultations with the Permanent Mission of Bolivia were conducted during the fifty-seventh session.
Cameroon	One decision finding violations; no follow-up reply received from the State party so far, in spite of reminder addressed to the State party on 28 June 1995. Follow-up consultations with the Permanent Mission of Cameroon should be conducted during the fifty-eighth session.
Canada	Six Views finding violations; four satisfactory follow-up replies and two incomplete follow-up replies received from the State party.
Central African Republic	One decision finding violations; satisfactory follow-up reply, dated 14 March 1996, has been received from the State party (see para. 457 below).

Colombia	Eight Views finding violations; six follow-up replies challenging the Committee's findings or amounting to late submissions on the merits, one incomplete follow-up reply dated 11 August 1995, and two fully satisfactory follow-up replies, dated 9 November 1995 and 8 January 1996, have been received from the State party. Follow-up consultations with the State party's Permanent Representative to the United Nations in New York were conducted during the fifty-third and fifty-sixth sessions (see paras. 439-441 below).
Czech Republic	One decision finding a violation of the Covenant; a follow-up reply, dated 27 November 1995, has been received from the State party. One author confirmed, by letter dated 30 October 1995, that Committee's recommendations were implemented, one author complained, by letter dated 14 May 1996, that he was not compensated (see para. 458 below).
Dominican Republic	Three Views finding violations; one satisfactory follow-up reply, no replies in two cases. Follow-up consultations with the Permanent Mission of the Dominican Republic were conducted during the fifty-seventh session.
Ecuador	Three Views finding violations; one follow-up reply received, no replies received in two cases. Follow-up consultations with the Permanent Mission of Ecuador should be conducted during the fifty-eighth session.
Equatorial Guinea	Two Views finding violations; no follow-up reply received from the State party. During follow-up consultations with the Permanent Mission of Equatorial Guinea in the course of the fifty-sixth session, the State party representative challenged the findings of the Committee (see paras. 442-444 below).
Finland	Four Views finding violations; satisfactory follow-up replies received in all four cases (see para. 460 below).
France	One decision finding violations; a satisfactory follow-up reply, dated 30 January 1996, has been received from the State party (see para. 459 below).
Hungary	One decision finding violations; an incomplete (preliminary) follow-up reply has been received.

Jamaica	Thirty-six Views finding violations; 12 detailed follow-up replies received, all indicating that the State party will not implement the Committee's recommendations; no follow-up replies, or "standardized" replies, indicating merely that the author's death sentence has been commuted on the basis of reclassification of the offence or as a result of the Privy Council judgement of 2 November 1993 in Pratt and Morgan in 22 cases. Follow-up consultations with the State party's representatives to the United Nations were conducted during the fifty-third, fifty-fifth and fifty-sixth sessions (see paras. 446-448 below). Prior to the Committee's fifty-fourth session, the Special Rapporteur for the Follow-Up on Views conducted a follow-up fact-finding mission to Jamaica (see annual report of the Committee for 1995, A/50/40, vol. I, paras. 557-562).
Libyan Arab Jamahiriya	One decision finding violations; no follow-up reply received. A reminder will be addressed to the State party.
Madagascar	Four Views finding violations; no follow-up reply received. Follow-up consultations with the Permanent Mission of Madagascar should be conducted during the fifty-eighth session.
Mauritius	One decision finding violations; a satisfactory follow-up reply has been received from the State party.
Netherlands	Four Views finding violations; satisfactory follow-up replies from the State party have been received in all four cases.
Nicaragua	One decision finding violations; no follow-up reply received from the State party, in spite of reminder addressed to it on 28 June 1995. Follow-up consultations with the Permanent Mission of Nicaragua should be conducted during the fifty-eighth session.
Panama	Two Views finding violations; no follow-up reply received from the State party. A reminder was addressed to the State party in respect of the first decision on 9 December 1994.
Peru	Four Views finding violations; two follow-up replies indicating that Views were passed on to the Supreme Court for action in two cases; no follow-up replies received in two cases. Follow-up consultations were conducted during the fifty-seventh session.

Republic of Korea	One decision finding violations; no follow-up reply from the State party as of 30 June 1996. During follow-up consultations with the Permanent Mission of the Republic of Korea during the fifty-sixth session, the State party representative indicated that the Committee's recommendations were under active consideration, and that a formal follow-up reply would be sent by the autumn of 1996 (see para. 449 below).
Senegal	One decision finding violations; a preliminary follow-up reply, dated 26 June 1995, promises further information upon conclusion of State party investigations in the victim's case. A further satisfactory follow-up reply, dated 15 July 1996, indicates that compensation will be paid to the victim (see para. 461 below).
Spain	One decision finding violations; the State party's follow-up reply, dated 30 June 1995, challenges the findings of the Committee.
Suriname	Eight Views with findings of violations. Two follow-up consultations with the Permanent Mission of Suriname during the fifty-third and the fifty-sixth sessions. The State party's preliminary follow-up reply, dated 25 July 1996, indicates that the Surinamese Parliament has passed a resolution recognizing that the assassination of the victims was in violation of basic human rights and that an independent judicial inquiry is being set up. Inquiries into the results of the investigation should be made during the fifty-eighth session.
Trinidad and Tobago	Four Views finding violations; two follow-up replies received; no follow-up reply in two cases, in spite of reminders addressed to the State party. Follow-up consultations with the Permanent Mission in New York were conducted during the fifty-sixth session; only one of the follow-up replies promised on that occasion had been received as of 30 June 1996 (see paras. 452 and 453 below).
Uruguay	Forty-five Views finding violations; 43 follow-up replies received. During consultations on 5 July 1996, a State party representative promised a satisfactory solution of the two outstanding cases in which no follow-up replies have been received (see para. 454 below).
Venezuela	One decision finding violations; a follow-up reply has been received from the State party.

Zaire	Ten Views finding violations; no follow-up reply has been received from the State, in spite of two reminders addressed to it.
Zambia	Two Views finding violations; one satisfactory reply and one preliminary, incomplete, follow-up reply have been received. On 24 April 1996, the victim in one case complained to the Committee that the State party had not implemented any of the Committee's recommendations in his case. Follow-up consultations in respect of the latter case will be conducted during the fifty-eighth session.

430. After six years, the overall results of the experience with the follow-up procedure are encouraging, yet they cannot be termed fully satisfactory. Some States parties replying under the follow-up procedure have indeed argued that they are implementing the Committee's Views by, for example, releasing from detention victims of human rights violations or by commuting sentences, by granting the victim compensation for the violations suffered, by amending legislation found incompatible with the provisions of the Covenant, or by offering the complainant other forms of remedies. Some States parties have acted on the Committee's Views and granted or offered some form of remedy but failed to inform the Committee accordingly.

431. On the other hand, a number of States parties have indicated that compensatory payments to the victim(s) were made ex gratia, notably where the domestic legal system does not provide for compensation in a different manner, or that a remedy was offered ex gratia. This, for example, was the argument of the Government of the Netherlands in its follow-up replies on the Committee's Views in respect of communications No. 305/1988 (Hugo van Alphen v. Netherlands) and No. 453/1991 (Coeriel and Aurick v. Netherlands).

432. The Committee is equally aware that the absence of specific enabling legislation is a crucial factor which often stands in the way of monetary compensation to victims of violations of the Covenant, or the granting of other remedies based on the Committee's Views. This argument was, for example, adduced by the Government of Austria in its follow-up reply on the Views in case No. 415/1990 (Pauger v. Austria), and by the Government of Senegal in its first follow-up reply on the Views in case No. 386/1989 (Famara Koné v. Senegal). The Committee commends those States parties which have compensated victims of violations of the Covenant; it urges States parties to consider the adoption of specific enabling legislation and, pending this, to make ex gratia payments by way of compensation.

433. By note verbale of 31 July 1995, the Government of Colombia informed the Committee that specific enabling legislation was introduced in the Colombian Senate, under which compensation would be paid to the victims in cases in which international human rights bodies, including the Human Rights Committee, found breaches of international human rights standards by Colombia. On 27 March 1996, the Permanent Representative of Colombia to the United Nations informed the Special Rapporteur that the draft enabling legislation was in the final stages of discussion in the Colombian Congress. The Committee welcomes the development and encourages other States parties to emulate the Colombian example.

434. In the case of Peru, where enabling legislation does exist, the Committee has considered whether it was appropriate to treat the complaint of the author of communication No. 203/1986 (Ruben Toribio Muñoz Hermosa v. Peru) to the effect that the Committee's Views had not been implemented by the Peruvian courts as a new case under the Optional Protocol. The Committee concluded that, for the time being, the author's contention that the State party had failed to provide him with a remedy should be examined in the context of the follow-up procedure.

435. Since it began to discuss follow-up matters in 1990, the Committee has carefully examined and analysed all the information gathered through the follow-up procedure. Between the forty-first and the fiftieth sessions, it considered follow-up information on a confidential basis. Periodic reports on follow-up activities (so-called "progress reports") were not made public, and the discussions on follow-up issues took place in closed meetings.

436. At the same time, however, the Committee acknowledged that publicity for follow-up activities would be the most appropriate means for making the procedure more effective. Thus, publicity for follow-up activities would not only be in the interest of victims of violations of the Covenant's provisions, but could also serve to enhance the authority of the Committee's Views and provide an incentive for States parties to implement them. The reaction of States parties to the increased publicity and visibility of follow-up activities since the publication of the last annual report, and the interest of academic and non-governmental institutions in the follow-up procedure, has reinforced the Committee's resolve to maintain the publicity of the procedure.

437. During its forty-seventh session in March-April 1993, the Committee agreed in principle that information on follow-up activities should be made public. Discussions on this issue have been held regularly since then. During the fiftieth session in March 1994, the Committee formally adopted a number of decisions concerning the effectiveness and publicity of the follow-up procedure. These decisions were the following:

(a) Every form of publicity will be given to follow-up activities.

(b) Annual reports shall include a separate chapter on follow-up activities under the Optional Protocol. This should clearly convey to the public which States have cooperated and which States have failed to cooperate with the Special Rapporteur for the Follow-Up on Views. Paragraph 429 above conveys which States parties have and which have not provided follow-up information or cooperated with the Special Rapporteur.

(c) Reminders shall be sent to all States parties which have failed to provide follow-up information. During the reporting period, follow-up reminders have been sent to States parties which have failed to reply to requests for follow-up information from the Special Rapporteur. As a result of these reminders, some States have formulated follow-up replies and forwarded them to the Special Rapporteur.

(d) Press communiqués will be issued once yearly after the summer session of the Committee, highlighting both positive and negative developments concerning the follow-up activities of the Committee and the Special Rapporteur.

(e) The Committee welcomes information which non-governmental organizations might wish to submit as to what measures States parties have taken, or failed to take, in respect of the implementation of the Committee's Views.

(f) The Special Rapporteur and members of the Committee should, as appropriate, establish contacts with particular Governments and Permanent Missions to the United Nations to inquire further about the implementation of the Committee's Views. Following the fifty-second session, Committee member Julio Prado Vallejo had contacts with government authorities in Colombia and Peru, during which the question of follow-up to some of the Committee's Views was raised.

(g) The Committee should draw the attention of States parties, at their biannual meetings, to the failure of certain States to implement the Committee's Views and to cooperate with the Special Rapporteur in providing information on the implementation of Views.

Overview of the Special Rapporteur's follow-up consultations during the reporting period

438. During the reporting period, the Special Rapporteur held follow-up consultations with the representatives of seven States parties to the Covenant and the Optional Protocol. He regrets that he was unable to establish direct contacts with the Permanent Mission of Zaire. The results of his consultations are summarized below.

439. During the fifty-sixth session, the Special Rapporteur met with the Permanent Representative of Colombia to the United Nations. He regretted that no reply on follow-up on four Views adopted during the mid- to late 1980s had been received from the State party. He suggested that in these cases, the State party should consider making at least an ex gratia payment to the victims and/or their families, or inform the Committee of any other steps taken to give effect to its recommendations.

440. In respect of follow-up to the Views on case No. 514/1992, 16/ the Special Rapporteur inquired why the State party had not given full effect to the Committee's recommendations. The Permanent Representative explained the history of the case and indicated that during the month of August 1995, the Colombian Procudaría para los Derechos Humanos had requested a copy of the case file from the Foreign Ministry, so as to investigate the case. While the Procudaría had not yet produced its report, its release was imminent. The author of the case was at liberty to initiate a procedure under the Colombian Civil Code to enforce her rights. The local police could also be requested to enforce the judicial orders in her favour. The Special Rapporteur requested that the result of the inquiry of the Procudaría be made available to him as soon as possible.

441. The Special Rapporteur expressed his thanks for the State party's full and satisfactory follow-up reply to the Views on case No. 563/1993. 17/

442. During the fifty-sixth session, the Special Rapporteur and the Chairman of the Committee met with the Counsellor of the Permanent Mission of Equatorial Guinea to the United Nations, who was reminded that Equatorial Guinea had failed to reply to several requests for follow-up information on the Committee's Views in cases Nos. 414/1990 (Primo Essono v. Equatorial Guinea) and 468/1991 (Oló Bahamonde v. Equatorial Guinea). The State party representative recalled that the State party had invited the Committee, in both of the above cases, to examine the authors' allegations in situ, and deplored that this had not been done prior to the adoption of the Views. He observed that his Government was

not convinced that the Committee was justified in condemning the State party so rapidly on the basis of allegations that could hardly be corroborated. In respect of case No. 414/1990, in which the author was also holder of a Spanish passport, he noted that Equatorial Guinea could not allow foreigners to mix in the internal affairs of the country.

443. The Chairman explained in some detail the procedures under articles 40 of the Covenant and under the Optional Protocol, noting in particular that no fact-finding was provided for, and that the Committee's decisions in the above cases were final. The State party representative regretted this and suggested that the Committee might have opted to defer its decisions. He further indicated that the new Minister for External Affairs had given assurances that a detailed follow-up reply would be sent to the Committee shortly; he was unconvinced, however, that either author merited any compensation.

444. The Committee expresses its serious concern over the attitude of the State party and notes that no follow-up reply had been received by the end of the Committee's fifty-seventh session. It suggests that Equatorial Guinea benefit from a special technical cooperation programme which could be designed by the Centre for Human Rights, and which should place a heavy emphasis on treaty-based procedures.

445. During the fifty-fifth session, the Special Rapporteur met with a counsellor of the Permanent Mission of France to the United Nations Office at Geneva, to discuss the status of follow-up on the Views adopted by the Committee in April 1989 in case No. 196/1985 (Gueye et al. v. France). The State party representative assured the Special Rapporteur that the French Foreign Ministry was endeavouring to submit to the Committee a detailed follow-up reply, which was under consideration. On 30 January 1996, the State party transmitted its follow-up reply to the Special Rapporteur.

446. Both during the fifty-fifth and the fifty-sixth sessions, the Special Rapporteur held detailed consultations with the Permanent Representatives of Jamaica to the United Nations Office at Geneva and to the United Nations in New York. In Geneva, the Special Rapporteur thanked the Permanent Representative for his assistance and cooperation in the preparation and the conduct of the follow-up mission to Jamaica in June 1995. He expressed appreciation for two detailed submissions dated 27 July and 11 September 1995, in which the Government had provided him with a list of inmates whose death sentences had been commuted. He noted, however, that these replies could not be deemed to constitute the "detailed follow-up replies" in respect of every case which the authorities had promised to prepare during his visit to Jamaica. Furthermore, the lists that had been provided were incomplete in that they had omitted a number of cases in respect of which the Committee had adopted Views and found violations of the Covenant.

447. In New York, during the fifty-sixth session, the Special Rapporteur inquired whether compensation had already been granted to victims of ill-treatment on death row or in detention in all the Views where the Committee had found violations of articles 7 and 10 of the Covenant. The Permanent Representative replied that this issue was still under discussion and review, and that no official reply had yet been received. As to the follow-up on cases where the Committee had recommended release of the victim or commutation of the death sentence, she indicated that some review of the Committee's recommendations had taken place in the Jamaican Privy Council, but that no recommendation for release had yet been made.

448. The Special Rapporteur suggested, inter alia, that the Committee's recommendations for release should be taken into account when deciding on a prisoner's eligibility for parole. All those cases in which the Committee had recommended release should be kept under review by the Office of the Governor-General of Jamaica or by the State party's Parole Board. Concerning the recent "standardization" of follow-up replies - a development regretted by the Special Rapporteur - the Permanent Representative observed that this standardization was largely a function of lack of personnel in the Jamaican Foreign Ministry. Finally, the Special Rapporteur requested a written update in respect of at least all the cases concerning ill-treatment of prisoners on death row or in detention. These replies had not been received by 26 July 1996.

449. During the fifty-sixth session, the Special Rapporteur met with a representative of the Republic of Korea to discuss the follow-up to the Committee's Views on communication No. 518/1992. 18/ The State party representative indicated that an interministerial committee had been set up, with a view to formulating concrete recommendations to the Government on the review of labour disputes legislation, in the light of the Committee's findings. He further observed that the author had recently filed a judicial action before a Seoul tribunal, basing his claims on the Committee's recommendations. The Government was reviewing the outcome of the procedure before the Seoul tribunal.

450. The Special Rapporteur inquired whether the author would be compensated, as recommended by the Committee. The State party representative indicated that compensation of the author would take some time, and in all likelihood would not occur before amendments of the Labour Disputes Act had been adopted by the State party's parliament. He suggested that the recommendations of the interministerial committee should be available by the start of the Committee's fifty-eighth session (October 1996).

451. During the fifty-sixth session, the Special Rapporteur met with a representative of Suriname, to discuss matters related to the follow-up on Views adopted by the Committee in eight Surinamese cases in 1985. He noted that follow-up information on these Views had still not been received, in spite of two reminders and a meeting held in New York during the fifty-third session. He requested a succinct report, by 1 July 1996, outlining what measures the State party had taken to compensate the families of the victims. On 25 July 1996, the State party forwarded to the Special Rapporteur a preliminary reply, indicating that the Surinamese Parliament has passed a resolution which acknowledges that the assassination of the victims in December 1982 constituted a flagrant violation of basic human rights. The State party indicates that an independent Commission of Investigation is being established to investigate the murders.

452. Finally, during the fifty-sixth session, the Chairman of the Committee and the Special Rapporteur met with the Deputy Permanent Representative of Trinidad and Tobago to the United Nations, to discuss the follow-up in respect of four Views adopted by the Committee. 19/ The Deputy Permanent Representative suggested that with a new government in place since the end of 1995, a new and more positive approach to human rights could be expected. The Special Rapporteur inquired about specific steps taken to give effect to the Committee's recommendations in the above cases, especially in that of Daniel Pinto. He noted with concern that Trinidad had failed to observe the Committee's recommendations so far, and suggested the possibility of a follow-up mission to Trinidad.

453. The Deputy Permanent Representative agreed to explore the possibility of a fact-finding mission to Trinidad, and considered this to be a useful option,

especially in the light of the recent change in government. She noted that the Committee's recommendations in the case of Lal Seerattan (No. 434/1990) had recently been sent to the Trinidadian Advisory Committee on the Power of Pardon. By note verbale dated 21 June 1996, the State party informed the Committee that its recommendations in the case of Leroy Shalto (No. 447/1991) would be considered by the Advisory Committee on the Power of Pardon at a meeting to be held shortly.

454. Finally, on 5 July 1996, the Special Rapporteur met with a representative of the Government of Uruguay, to discuss, inter alia, issues of follow-up on Views adopted by the Committee in respect of Uruguay. On two Views on which no follow-up replies had so far been received from the Government, the Special Rapporteur suggested that the State party might consider awarding ex gratia compensation to the victims. The State party representative replied that he would endeavour to seek an equitable solution for the victims in these cases.

Overview of positive examples of follow-up cooperation/replies during the reporting period

455. During the fifty-third session (March-April 1995), the Committee adopted its Views on communication No. 400/1990 (Mónaco de Gallicchio v. Argentina), finding a violation of article 24, paragraphs 1 and 2, of the Covenant, and recommending the payment of compensation to the author and her granddaughter. In two follow-up submissions in August and September 1995, the State party indicates that by judgement of 30 August 1995, a federal judge ordered the police authorities to lift the prohibition to leave the country vis-à-vis the victim's granddaughter and to expedite the delivery of a federal identity card and a passport. The State party adds that, with this decision, the victim's granddaughter ceases to be under the legal authority of the court and is placed under the author's guardianship.

456. In April 1994, the Committee adopted its Views in respect of communication No. 488/1992 (Nicholas Toonen v. Australia), finding a violation of article 17 of the Covenant, and recommending that the State party repeal legislation in Tasmania which criminalizes homosexual activity between adult consenting males in private. On 3 May 1996, the State forwarded its follow-up reply to the Committee noting that the Tasmanian Government did not intend to repeal the law. As a consequence it had become necessary for the Government of Australia to take action to ensure that the protection of human rights in Australia met the standards set out in the Covenant. The Human Rights (Sexual Conduct) Act 1994 had entered into force on 19 December 1994. This Act provides that sexual conduct involving only consenting adults in private shall not be an offence under any law of the Commonwealth, a State or a Territory. The State party observes that the Act does not provide that the right to be free from interference with privacy is absolute or unlimited. It explicitly recognizes that in some circumstances, it is legitimate to intrude into the privacy of individuals; furthermore, the Act provides that no one be subjected to any "arbitrary interference" with privacy. The legislation covers sexual conduct involving only consenting adults in private. The term "sexual conduct" will be given its ordinary meaning by the courts. The State party also notes that Mr. Toonen recently has lodged an application with the High Court to challenge the validity of sections 122 and 123 of the Tasmanian Criminal Code on the basis that these sections are inconsistent with the Human Rights (Sexual Conduct) Act 1994.

457. On 7 April 1994, the Human Rights Committee adopted its Views on communication No. 428/1990 (F. Bozize v. Central African Republic), finding

violations of several provisions of the Covenant and recommending the author's immediate release, as well as compensation for the treatment to which he had been subjected. By note verbale of 14 March 1996, the State party informed the Committee that Mr. Bozize was released from detention after the restoration of multipartism in 1992 and allowed to travel to France, where he established temporary residence. Mr. Bozize founded his own political party in France and was a presidential candidate for the general elections in 1992 and in 1993. The State party adds that Mr. Bozize has subsequently been reintegrated into the country's civil service, that he is entirely free in his movements, and enjoys all civil and political rights guaranteed under the Covenant. The State party points out that promotion and respect of human rights are major objectives of the new Government and of the Head of State, Ange Félix Patassé.

458. During the fifty-third session, the Human Rights Committee adopted Views on communication No. 516/1992 (A. Simunek et al. v. Czech Republic), finding a violation of article 26 of the Covenant, and recommending either restitution of authors' properties to them or compensation if their properties could not be returned. On 22 November 1995, the State party forwarded to the Committee a detailed follow-up reply, in which it indicated that the implementation of concrete measures to afford the authors an effective remedy is currently being discussed by the competent Czech authorities. Measures under consideration include, according to the State party, review of the legislation found to be incompatible with article 26 of the Covenant by the Committee, the return of the authors' property to them or compensation for it. By letter dated 30 October 1995, one of the authors of the communication confirms that her property was returned to her. On 14 May 1996, one author complains that the valuation of his property, which would be used as the basis for his compensation entitlement, is being delayed by the authorities, and expresses the fear that his compensation will not reflect the true value of his property.

459. On 30 January 1996, the French Government forwarded to the Human Rights Committee its follow-up reply on the Committee's Views and recommendations in respect of communication No. 196/1989 (Gueye et al. v. France), which had been adopted in the spring of 1989. In its submission, the State party indicates that the pensions of former Senegalese soldiers of the French Army and those of former soldiers of the French Army who are citizens of other former French colonies have been readjusted on several occasions since the adoption of the Views:

(a) With effect from 1 July 1989: general readjustment of 8 per cent;

(b) With effect from 1 January 1993: readjustment of 8.2 per cent (for Senegalese citizens);

(c) With effect from 1 September 1994: general readjustment by 4.75 per cent of military invalidity pensions;

(d) With effect from 1 January 1995: general readjustment by 20 per cent of certain types of military invalidity pensions.

The State party further indicates that an association of former Senegalese soldiers of the French Army has filed a request for readjustment of military pensions before the Administrative Tribunal of Paris, which is currently examining the case.

460. On 5 July 1996, counsel to the authors of communications Nos. 265/1987 (Vuolanne v. Finland) and 412/1990 (Kivenmaa v. Finland) submitted updates on

the follow-up given by Finland in respect of the Committee's Views in these cases. In case No. 265/1987, the Committee had found a violation of article 9, paragraph 4, of the Covenant, and recommended that the victim be compensated. Counsel notes that on 16 April 1996, the Supreme Administrative Court of Finland confirmed a previous decision by the Administrative Court of Uusimaa pursuant to which the State party was to pay Mr. Vuolanne FIM 8,000 as a remedy for the violation of article 9, plus FIM 4,000 to compensate for legal costs. These amounts were paid to him on 28 June 1996. In respect of case No. 412/1990, in which the Committee had found a violation of articles 19 and 21 of the Covenant, counsel observes that on 28 May 1996, the Finnish Supreme Court dismissed an appeal for an extraordinary remedy filed by Ms. Kivenmaa; the Court did not nullify an earlier court decision which had imposed a fine on Ms. Kivenmaa. Counsel notes that his client has now asked the Government to compensate her for the violations of articles 19 and 21 suffered.

461. During the fifty-second session in October 1994, the Committee adopted Views on communication No. 386/1989 (Famara Koné v. Senegal), finding a violation of article 9, paragraph 3, and recommending that compensation be awarded to the author. By submission dated 26 June 1995, the State party promises information upon the conclusion of thorough investigations into the victim's case. After a reminder addressed to the State party in February 1996, the State party, by submission of 15 July 1996, informed the Committee that the President of Senegal gave instructions to the State party's Minister of Justice to make an ex gratia payment to Mr. Koné, as compensation for the duration of his pre-trial detention.

462. The Committee welcomes the above follow-up replies and expresses its appreciation for all the measures taken or envisaged to provide the victims of violations of the Covenant with an effective remedy. It encourages all States parties which have addressed preliminary follow-up replies to the Special Rapporteur to conclude their investigations in as expeditious a manner as possible and to inform the Special Rapporteur of their results.

Concern over instances of non-cooperation under the follow-up mandate

463. In spite of the progress in collecting follow-up information since the adoption of the last annual report, the Committee and the Special Rapporteur note with concern that a number of countries did not provide any follow-up information within the deadlines established by the Committee or have not replied to reminders or requests for information from the Special Rapporteur. Those States which have not replied to requests for follow-up information are (in alphabetical order):

Bolivia (no reply in respect of two cases);

Dominican Republic (no reply in respect of two cases);

Equatorial Guinea (no reply in respect of two cases);

Jamaica (no reply in respect of five cases);

Libyan Arab Jamahiriya (no reply in respect of one case);

Nicaragua (no reply in respect of one case);

Panama (no reply in respect of two cases);

Peru (no reply in respect of two cases);

Trinidad and Tobago (no reply in respect of two cases);

Uruguay (no reply in respect of two cases);

Zaire (no reply in respect of 10 cases).

464. The Special Rapporteur urges these States parties to reply to his requests for follow-up information within the imparted deadlines.

465. The Committee reconfirms that it will keep the functioning of the follow-up procedure under regular review.

466. The Committee regrets that its recommendation, in the annual report for 1995, to the effect that at least one follow-up mission per year be budgeted by the Centre for Human Rights, has not yet been implemented by the Centre. The Committee urges the Centre to budget and schedule at least one follow-up mission for 1997.

Notes

1/ Official Records of the General Assembly, Fiftieth Session, Supplement No. 40 (A/50/40), paras. 35 to 45.

2/ Official Records of the General Assembly, Thirty-sixth Session, Supplement No. 40 (A/36/40), annex V.

3/ Ibid., Forty-fifth Session, Supplement No. 40, vol. I, para. 12.

4/ Ibid., Forty-sixth Session, Supplement No. 40 (A/46/40), paras. 21 and 32 and annex VII.

5/ See paras. 254 to 305 below.

6/ At its 1469th meeting (fifty-fifth session), held on 1 November 1995.

7/ Read out by the Chairman at the Committee's 1453rd meeting, held on 20 October 1995.

8/ See documents CCPR/C/SR.1178/Add.1, CCPR/C/SR.1200, CCPR/C/SR.1201 and CCPR/C/SR.1202.

9/ At its 1470th meeting (fifty-fifth session), held on 1 November 1995.

10/ At its 1471st meeting (fifty-fifth session), held on 2 November 1995.

11/ At its 1497th meeting (fifty-sixth session), held on 2 April 1996.

12/ At its 1498th meeting (fifty-sixth session), held on 3 April 1996.

13/ At its 1498th meeting (fifty-sixth session), held on 3 April 1996.

14/ At the 1499th meeting (fifty-sixth session), held on 3 April 1996.

15/ At the 1499th meeting (fifty-sixth session), held on 3 April 1996.

ANNEX I

States Parties to the International Covenant on Civil and Political Rights and to the Optional Protocols and States which have made the declaration under article 41 of the Covenant as at 28 July 1996

State party	Date of receipt of the instrument of ratification or accession (a) or succession (d)	Date of entry into force
	A. States parties to the International Covenant on Civil and Political Rights (137)	
Afghanistan	24 January 1983 (a)	24 April 1983
Albania	4 October 1991 (a)	4 January 1992
Algeria	12 September 1989	12 December 1989
Angola	10 January 1992 (a)	10 April 1992
Argentina	8 August 1986	8 November 1986
Armenia a/	23 June 1993	23 September 1993
Australia	13 August 1980	13 November 1980
Austria	10 September 1978	10 December 1978
Azerbaijan a/	13 August 1992 (a)	13 November 1992
Barbados	5 January 1973 (a)	23 March 1976
Belarus	12 November 1973	23 March 1976
Belgium	21 April 1983	21 July 1983
Belize	10 June 1996 (a)	10 September 1996
Benin	12 March 1992 (a)	12 June 1992
Bolivia	12 August 1982 (a)	12 November 1982
Bosnia and Herzegovina	1 September 1993 (d)	6 March 1992
Brazil	24 January 1992 (a)	24 April 1992
Bulgaria	21 September 1970	23 March 1976
Burundi	9 May 1990 (a)	9 August 1990
Cambodia	26 May 1992 (a)	26 August 1992
Cameroon	27 June 1984 (a)	27 September 1984
Canada	19 May 1976 (a)	19 August 1976
Cape Verde	6 August 1993 (a)	6 November 1993
Central African Republic	8 May 1981 (a)	8 August 1981
Chad	9 June 1995 (a)	9 September 1995
Chile	10 February 1972	23 March 1976
Colombia	29 October 1969	23 March 1976
Congo	5 October 1983 (a)	5 January 1984
Costa Rica	29 November 1968	23 March 1976
Côte d'Ivoire	26 March 1992 (a)	26 June 1992
Croatia	12 October 1992 (d)	8 October 1991
Cyprus	2 April 1969	23 March 1976
Czech Republic	22 February 1993 (d)	1 January 1993
Democratic People's Republic of Korea	14 September 1981 (a)	14 December 1981
Denmark	6 January 1972	23 March 1976

State party	Date of receipt of the instrument of ratification or accession (a) or succession (d)	Date of entry into force
Dominica	17 June 1993 (a)	17 September 1993
Dominican Republic	4 January 1978 (a)	4 April 1978
Ecuador	6 March 1969	23 March 1976
Egypt	14 January 1982	14 April 1982
El Salvador	30 November 1979	29 February 1980
Equatorial Guinea	25 September 1987 (a)	25 December 1987
Estonia a/	21 October 1991 (a)	21 January 1992
Ethiopia	11 June 1993 (a)	11 September 1993
Finland	19 August 1975	23 March 1976
France	4 November 1980 (a)	4 February 1981
Gabon	21 January 1983 (a)	21 April 1983
Gambia	22 March 1979 (a)	22 June 1979
Georgia a/	3 May 1994 (a)	3 August 1994
Germany	17 December 1973	23 March 1976
Grenada	6 September 1991 (a)	6 December 1991
Guatemala	6 May 1992 (a)	5 August 1992
Guinea	24 January 1978	24 April 1978
Guyana	15 February 1977	15 May 1977
Haiti	6 February 1991 (a)	6 May 1991
Hungary	17 January 1974	23 March 1976
Iceland	22 August 1979	22 November 1979
India	10 April 1979 (a)	10 July 1979
Iran (Islamic Republic of)	24 June 1975	23 March 1976
Iraq	25 January 1971	23 March 1976
Ireland	8 December 1989	8 March 1990
Israel	3 October 1991 (a)	3 January 1992
Italy	15 September 1978	15 December 1978
Jamaica	3 October 1975	23 March 1976
Japan	21 June 1979	21 September 1979
Jordan	28 May 1975	23 March 1976
Kazakstan b/		
Kenya	1 May 1972 (a)	23 March 1976
Kuwait	21 May 1996 (a)	21 August 1996
Kyrgyzstan a/	7 October 1994 (a)	7 January 1995
Latvia a/	14 April 1992 (a)	14 July 1992
Lebanon	3 November 1972 (a)	23 March 1976
Lesotho	9 September 1992 (a)	9 December 1992
Libyan Arab Jamahiriya	15 May 1970 (a)	23 March 1976
Lithuania a/	20 November 1991 (a)	20 February 1992
Luxembourg	18 August 1983	18 November 1983
Madagascar	21 June 1971	23 March 1976
Malawi	22 December 1993 (a)	22 March 1994
Mali	16 July 1974 (a)	23 March 1976
Malta	13 September 1990 (a)	13 December 1990
Mauritius	12 December 1973 (a)	23 March 1976

State party	Date of receipt of the instrument of ratification or accession (a) or succession (d)	Date of entry into force
Mexico	23 March 1981 (a)	23 June 1981
Mongolia	18 November 1974	23 March 1976
Morocco	3 May 1979	3 August 1979
Mozambique	21 July 1993 (a)	21 October 1993
Namibia	28 November 1994 (a)	28 February 1995
Nepal	14 May 1991	14 August 1991
Netherlands	11 December 1978	11 March 1979
New Zealand	28 December 1978	28 March 1979
Nicaragua	12 March 1980 (a)	12 June 1980
Niger	7 March 1986 (a)	7 June 1986
Nigeria	29 July 1993 (a)	29 October 1993
Norway	13 September 1972	23 March 1976
Panama	8 March 1977	8 June 1977
Paraguay	10 June 1992 (a)	10 September 1992
Peru	28 April 1978	28 July 1978
Philippines	23 October 1986	23 January 1987
Poland	18 March 1977	18 June 1977
Portugal	15 June 1978	15 September 1978
Republic of Korea	10 April 1990 (a)	10 July 1990
Republic of Moldova a/	26 January 1993 (a)	26 April 1993
Romania	9 December 1974	23 March 1976
Russian Federation	16 October 1973	23 March 1976
Rwanda	16 April 1975 (a)	23 March 1976
Saint Vincent and the Grenadines	9 November 1981 (a)	9 February 1982
San Marino	18 October 1985 (a)	18 January 1986
Senegal	13 February 1978	13 May 1978
Seychelles	5 May 1992 (a)	5 August 1992
Slovakia	28 May 1993 (d)	1 January 1993
Slovenia	6 July 1992 (d)	25 June 1991
Somalia	24 January 1990 (a)	24 April 1990
Spain	27 April 1977	27 July 1977
Sri Lanka	11 June 1980 (a)	11 September 1980
Sudan	18 March 1986 (a)	18 June 1986
Suriname	28 December 1976 (a)	28 March 1977
Sweden	6 December 1971	23 March 1976
Switzerland	18 June 1992 (a)	18 September 1992
Syrian Arab Republic	21 April 1969 (a)	23 March 1976
The former Yugoslav Republic of Macedonia a/	18 January 1994 (d)	17 September 1991
Tajikistan b/		
Togo	24 May 1984 (a)	24 August 1984

State party	Date of receipt of the instrument of ratification or accession (a) or succession (d)	Date of entry into force
Trinidad and Tobago	21 December 1978 (a)	21 March 1979
Tunisia	18 March 1969	23 March 1976
Turkmenistan b/		
Uganda	21 June 1995 (a)	21 September 1995
Ukraine	12 November 1973	23 March 1976
United Kingdom of Great Britain and Northern Ireland	20 May 1976	20 August 1976
United Republic of Tanzania	11 June 1976 (a)	11 September 1976
United States of America	8 June 1992	8 September 1992
Uruguay	1 April 1970	23 March 1976
Uzbekistan a/	28 September 1995	28 December 1995
Venezuela	10 May 1978	10 August 1978
Viet Nam	24 September 1982 (a)	24 December 1982
Yemen	9 February 1987 (a)	9 May 1987
Yugoslavia	2 June 1971	23 March 1976
Zaire	1 November 1976 (a)	1 February 1977
Zambia	10 April 1984 (a)	10 July 1984
Zimbabwe	13 May 1991 (a)	13 August 1991

B. States parties to the Optional Protocol (88)

State party	Date of receipt of the instrument of ratification or accession (a) or succession (d)	Date of entry into force
Algeria	12 September 1989 (a)	12 December 1990
Angola	10 January 1992 (a)	10 April 1992
Argentina	8 August 1986 (a)	8 November 1986
Armenia	23 June 1993	23 September 1993
Australia	25 September 1991 (a)	25 December 1991
Austria	10 December 1987	10 March 1988
Barbados	5 January 1973 (a)	23 March 1976
Belarus	30 September 1992 (a)	30 December 1992
Belgium	17 May 1994 (a)	17 August 1994
Benin	12 March 1992 (a)	12 June 1992
Bolivia	12 August 1982 (a)	12 November 1982
Bosnia and Herzegovina	1 March 1995	1 June 1995
Bulgaria	26 March 1992 (a)	26 June 1992
Cameroon	27 June 1984 (a)	27 September 1984
Canada	19 May 1976 (a)	19 August 1976
Central African Republic	8 May 1981 (a)	8 August 1981
Chad	9 June 1995	9 September 1995
Chile	28 May 1992 (a)	28 August 1992
Colombia	29 October 1969	23 March 1976
Congo	5 October 1983 (a)	5 January 1984

State party	Date of receipt of the instrument of ratification or accession (a) or succession (d)	Date of entry into force
Costa Rica	29 November 1968	23 March 1976
Croatia	12 October 1995	12 January 1996
Cyprus	15 April 1992	15 July 1992
Czech Republic	22 February 1993 (d)	1 January 1993
Denmark	6 January 1972	23 March 1976
Dominican Republic	4 January 1978 (a)	4 April 1978
Ecuador	6 March 1969	23 March 1976
El Salvador	6 June 1995	6 September 1995
Equatorial Guinea	25 September 1987 (a)	25 December 1987
Estonia	21 October 1991 (a)	21 January 1992
Finland	19 August 1975	23 March 1976
France	17 February 1984 (a)	17 May 1984
Gambia	9 June 1988 (a)	9 September 1988
Georgia	3 May 1994 (a)	3 August 1994
Germany	25 August 1993	25 November 1993
Guinea	17 June 1993	17 September 1993
Guyana	10 May 1993 (a)	10 August 1993
Hungary	7 September 1988 (a)	7 December 1988
Iceland	22 August 1979 (a)	22 November 1979
Ireland	8 December 1989	8 March 1990
Italy	15 September 1978	15 December 1978
Jamaica	3 October 1975	23 March 1976
Kyrgyzstan	7 October 1994 (a)	7 January 1995
Latvia	22 June 1994 (a)	22 September 1994
Libyan Arab Jamahiriya	16 May 1989 (a)	16 August 1989
Lithuania	20 November 1991 (a)	20 February 1992
Luxembourg	18 August 1983 (a)	18 November 1983
Madagascar	21 June 1971	23 March 1976
Malawi	11 June 1996	11 September 1996
Malta	13 September 1990 (a)	13 December 1990
Mauritius	12 December 1973 (a)	23 March 1976
Mongolia	16 April 1991 (a)	16 July 1991
Namibia	28 November 1994 (a)	28 February 1995
Nepal	14 May 1991 (a)	14 August 1991
Netherlands	11 December 1978	11 March 1979
New Zealand	26 May 1989 (a)	26 August 1989
Nicaragua	12 March 1980 (a)	12 June 1980
Niger	7 March 1986 (a)	7 June 1986
Norway	13 September 1972	23 March 1976
Panama	8 March 1977	8 June 1977
Paraguay	10 January 1995 (a)	10 April 1995
Peru	3 October 1980	3 January 1981
Philippines	22 August 1989 (a)	22 November 1989
Poland	7 November 1991 (a)	7 February 1992
Portugal	3 May 1983	3 August 1983

State party	Date of receipt of the instrument of ratification or accession (a) or succession (d)	Date of entry into force
Republic of Korea	10 April 1990 (a)	10 July 1990
Romania	20 July 1993 (a)	20 October 1993
Russian Federation	1 October 1991 (a)	1 January 1992
Saint Vincent and the Grenadines	9 November 1981 (a)	9 February 1982
San Marino	18 October 1985 (a)	18 January 1986
Senegal	13 February 1978	13 May 1978
Seychelles	5 May 1992 (a)	5 August 1992
Slovakia	28 May 1993	1 January 1993
Slovenia	16 July 1993 (a)	16 October 1993
Somalia	24 January 1990 (a)	24 April 1990
Spain	25 January 1985 (a)	25 April 1985
Suriname	28 December 1976 (a)	28 March 1977
Sweden	6 December 1971	23 March 1976
The former Yugoslav Republic of Macedonia	12 December 1994 (a)	12 March 1995
Togo	30 March 1988 (a)	30 June 1988
Trinidad and Tobago	14 November 1980 (a)	14 February 1981
Uganda	14 November 1995	14 February 1996
Ukraine	25 July 1991 (a)	25 October 1991
Uruguay	1 April 1970	23 March 1976
Uzbekistan	28 September 1995	28 December 1995
Venezuela	10 May 1978	10 August 1978
Zaire	1 November 1976 (a)	1 February 1977
Zambia	10 April 1984 (a)	10 July 1984

C. Status of the Second Optional Protocol aiming at the abolition of the death penalty (29)

State party	Date of receipt of the instrument of ratification or accession (a) or succession (d)	Date of entry into force
Australia	2 October 1990 (a)	11 July 1991
Austria	2 March 1993	2 June 1993
Croatia	12 October 1995	12 January 1996
Denmark	24 February 1994	24 May 1994
Ecuador	23 February 1993 (a)	23 May 1993
Finland	4 April 1991	11 July 1991
Germany	18 August 1992	18 November 1992
Hungary	24 February 1994 (a)	24 May 1994
Iceland	2 April 1991	11 July 1991
Ireland	18 June 1993 (a)	18 September 1993

State party	Date of receipt of the instrument of ratification or accession (a) or succession (d)	Date of entry into force
Italy	14 February 1995	14 May 1995
Luxembourg	12 February 1992	12 May 1992
Malta	29 December 1994	29 March 1995
Mozambique	21 July 1993 (a)	21 October 1993
Namibia	28 November 1994 (a)	28 February 1995
Netherlands	26 March 1991	11 July 1991
New Zealand	22 February 1990	11 July 1991
Norway	5 September 1991	5 December 1991
Panama	21 January 1993 (a)	21 April 1993
Portugal	17 October 1990	11 July 1991
Romania	27 February 1991	11 July 1991
Seychelles	15 December 1994 (a)	15 March 1995
Slovenia	10 March 1994	10 June 1994
Spain	11 April 1991	11 July 1991
Sweden	11 May 1990	11 July 1991
Switzerland	16 June 1994 (a)	16 September 1994
The former Yugoslav Republic of Macedonia	26 January 1995 (a)	26 April 1995
Uruguay	21 January 1993	21 April 1993
Venezuela	22 February 1993	22 May 1993

D. States which have made the declaration under article 41 of the Covenant (45)

State party	Valid from	Valid until
Algeria	12 September 1989	Indefinitely
Argentina	8 August 1986	Indefinitely
Australia	28 January 1993	Indefinitely
Austria	10 September 1978	Indefinitely
Belarus	30 September 1992	Indefinitely
Belgium	5 March 1987	Indefinitely
Bosnia and Herzegovina	6 March 1992	Indefinitely
Bulgaria	12 May 1993	Indefinitely
Canada	29 October 1979	Indefinitely
Chile	11 March 1990	Indefinitely
Congo	7 July 1989	Indefinitely
Croatia	12 October 1995	12 October 1996
Czech Republic	1 January 1993	Indefinitely
Denmark	23 March 1976	Indefinitely
Ecuador	24 August 1984	Indefinitely
Finland	19 August 1975	Indefinitely
Gambia	9 June 1988	Indefinitely
Germany	28 March 1979	27 March 1996
Guyana	10 May 1993	Indefinitely
Hungary	7 September 1988	Indefinitely

State party	Valid from	Valid until
Iceland	22 August 1979	Indefinitely
Ireland	8 December 1989	Indefinitely
Italy	15 September 1978	Indefinitely
Luxembourg	18 August 1983	Indefinitely
Malta	13 September 1990	Indefinitely
Netherlands	11 December 1978	Indefinitely
New Zealand	28 December 1978	Indefinitely
Norway	23 March 1976	Indefinitely
Peru	9 April 1984	Indefinitely
Philippines	23 October 1986	Indefinitely
Poland	25 September 1990	Indefinitely
Republic of Korea	10 April 1990	Indefinitely
Russian Federation	1 October 1991	Indefinitely
Senegal	5 January 1981	Indefinitely
Slovakia	1 January 1993	Indefinitely
Slovenia	6 July 1992	Indefinitely
Spain	25 January 1985	25 January 1993
Sri Lanka	11 June 1980	Indefinitely
Sweden	23 March 1976	Indefinitely
Switzerland	18 September 1992	18 September 1997
Tunisia	24 June 1993	Indefinitely
Ukraine	28 July 1992	Indefinitely
United Kingdom of Great Britain and Northern Ireland	20 May 1976	Indefinitely
United States of America	8 September 1992	Indefinitely
Zimbabwe	20 August 1991	Indefinitely

E. Implementation of the Covenant in the new States that constituted parts of former States parties to the Covenant

Although declarations of succession have not been received, the peoples within the territory of the following States - which constituted parts of a former State party to the Covenant - continue to be entitled to the guarantees enunciated in the Covenant in accordance with the Committee's established jurisprudence (see annual report A/49/40, paras. 48 and 49):

Kazakstan
Tajikistan
Turkmenistan

In notes verbales dated 28 May 1993, the Committee had requested these States to submit their reports under article 40 of the Covenant.

Notes

a/ In the opinion of the Committee, the entry into force goes back to the date when the State became independent.

b/ Although a declaration of succession has not been received, the people within the territory of the State - which constituted part of a former State party to the Covenant - continue to be entitled to the guarantees enunciated in the Covenant in accordance with the Committee's established jurisprudence (see annual report A/49/40, paras. 48 and 49).

ANNEX II

Members and officers of the Human Rights Committee, 1995-1996

A. Members

Mr. Francisco José Aguilar Urbina*	Costa Rica
Mr. Nisuke Ando**	Japan
Mr. Tamás Bán*	Hungary
Mr. Prafullachandra Natwarlal Bhagwati**	India
Mr. Marco Tulio Bruni Celli*	Venezuela
Mr. Thomas Buergenthal**	United States of America
Mrs. Christine Chanet**	France
Lord Colville*	United Kingdom of Great Britain and Northern Ireland
Mr. Omran El Shafei**	Egypt
Mrs. Elizabeth Evatt*	Australia
Mr. Laurel Francis*	Jamaica
Mr. Eckart Klein**	Germany
Mr. David Kretzmer**	Israel
Mr. Rajsoomer Lallah*	Mauritius
Mr. Andreas Mavrommatis*	Cyprus
Mrs. Cecilia Medina Quiroga**	Chile
Mr. Fausto Pocar*	Italy
Mr. Julio Prado Vallejo**	Ecuador

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* Term expires on 31 December 1996.

** Term expires on 31 December 1998.

B. Officers

The officers of the Committee, elected for two-year terms at the 1387th and 1399th meetings, held on 20 and 28 March 1995, are as follows:

Chairman: Mr. Francisco José Aguilar Urbina

Vice-Chairmen: Mr. Prafullachandra Natwarlal Bhagwati
Mr. Tamás Bán
Mr. Omran El Shafei

Rapporteur: Mrs. Christine Chanet

ANNEX III

Submission of reports and additional information by States Parties under article 40 of the Covenant during the period under review 1/

States parties	Type of report	Date due	Date of submission	Date of last written reminder sent to States whose reports have not yet been submitted
Afghanistan	Second	23 April 1989	23 March 1992 2/	-
	Third	23 April 1994	Not yet received	-
Albania	Initial	3 January 1993	Not yet received	(6) 15 February 1996
Algeria	Second	11 December 1995	Not yet received	-
Angola	Initial 3/	9 April 1993	Not yet received	(3) 15 February 1996
Argentina	Third	11 July 1997	Not yet due	-
Armenia	Initial	22 September 1994	Not yet received	(3) 15 February 1996
Australia	Third	12 November 1991	Not yet received	(8) 15 February 1996
Austria	Third	9 April 1993	Not yet received	(5) 15 February 1996
Azerbaijan	Second	12 November 1998	Not yet due	-
Barbados	Third	11 April 1991	Not yet received	(10) 15 February 1996
	Fourth	11 April 1996	Not yet received	-
Belarus	Fourth	4 November 1993	11 April 1995	-
Belgium	Third	20 July 1994	Not yet received	(3) 15 February 1996
Benin	Initial	11 June 1993	Not yet received	(4) 15 February 1996
Bolivia	Second 4/	13 July 1990	20 March 1996	-
	Third	11 November 1993	Not yet received	-
Bosnia and Herzegovina	Initial	5 March 1995	Not yet received	(2) 15 February 1996
Brazil	Initial	23 April 1993	17 November 1994	-
Bulgaria	Third 5/	31 December 1994	Not yet received	(2) 29 June 1995
Burundi	Second	8 August 1996	Not yet due	-
Cambodia	Initial	25 August 1993	Not yet received	(2) 12 December 1994
Cameroon	Third	26 September 1995	Not yet received	(1) 15 February 1996
Canada	Fourth	4 April 1995	Not yet received	(2) 15 February 1996
Cape Verde	Initial	5 November 1994	Not yet received	(1) 29 June 1995
Central African Republic	Second 6/	9 April 1989	Not yet received	(13) 15 February 1996
	Third	7 August 1992	Not yet received	(7) 15 February 1996
Chad	Initial	8 June 1996	Not yet received	-
Chile	Fourth	28 April 1994	Not yet received	(3) 15 February 1996
Colombia	Fourth	2 August 1995	9 July 1996	-
Congo	Second	4 January 1990	9 July 1996	-
	Third	4 January 1995	Not yet received	-
Costa Rica	Fourth	2 August 1995	Not yet received	(1) 15 February 1996
Côte d'Ivoire	Initial	25 June 1993	Not yet received	(4) 29 June 1995

States parties	Type of report	Date due	Date of submission	Date of last written reminder sent to States whose reports have not yet been submitted
Croatia	Initial	7 October 1992	Not yet received	(5) 15 February 1996
Cyprus	Third 7/	31 December 1994	28 December 1994	-
	Fourth	18 August 1994	Not yet received	-
Czech Republic	Initial	31 December 1993	Not yet received	(2) 15 February 1996
Democratic People's Republic of Korea	Second	13 December 1987	Not yet received	(16) 15 February 1996
	Third	13 December 1992	Not yet received	(6) 15 February 1996
Denmark	Third	1 November 1990	7 April 1995	-
	Fourth	1 November 1995	Not yet received	-
Dominica	Initial	16 September 1994	Not yet received	(3) 15 February 1996
Dominican Republic	Fourth	3 April 1994	Not yet received	(4) 15 February 1996
Ecuador	Fourth	4 November 1993	Not yet received	(5) 15 February 1996
El Salvador	Third 8/	31 December 1995	Not yet received	-
	Fourth	28 February 1996	Not yet received	-
Equatorial Guinea	Initial	24 December 1988	Not yet received	(14) 15 February 1996
	Second	24 December 1993	Not yet received	(4) 15 February 1996
Egypt	Third 9/	31 December 1994	Not yet received	(2) 15 February 1996
Estonia	Second	20 January 1998	Not yet due	-
Ethiopia	Initial	10 September 1994	Not yet received	(3) 15 February 1996
Finland	Fourth	18 August 1994	10 August 1995	-
France	Third	3 February 1992	15 March 1996	-
Gabon	Initial	20 April 1984	16 November 1995	-
	Second	20 April 1989	Not yet received	-
	Third	20 April 1994	Not yet received	-
Gambia	Second	21 June 1985	Not yet received	(22) 15 February 1996
	Third	21 June 1990	Not yet received	(11) 15 February 1996
	Fourth	21 June 1995	Not yet received	(1) 15 February 1996
Georgia	Initial	2 August 1995	21 November 1995	-
Germany	Fourth	3 August 1993	12 September 1995	-
Grenada	Initial	5 December 1992	Not yet received	(6) 15 February 1996
Guatemala	Initial	4 August 1993	7 December 1994	-
	Second	4 August 1998	Not yet due	-
Guinea	Third	31 December 1994	Not yet received	(2) 15 February 1996
Guyana	Second	10 April 1987	Not yet received	(18) 15 February 1996
	Third	10 April 1992	Not yet received	(8) 15 February 1996
Haiti	Initial 10/	31 December 1996	Not yet due	-
Hungary	Fourth	2 August 1995	Not yet received	(1) 15 February 1996
Iceland	Third	31 December 1994	23 March 1995	-

States parties	Type of report	Date due	Date of submission	Date of last written reminder sent to States whose reports have not yet been submitted
India	Third 11/	31 March 1992	29 November 1995	-
	Fourth	9 July 1995	Not yet received	-
Iran (Islamic Republic of)	Third 12/	31 December 1994	Not yet received	(2) 15 February 1996
Iraq	Fourth	4 April 1995	5 February 1996	-
Ireland	Second	7 March 1996	Not yet received	-
Israel	Initial	2 January 1993	Not yet received	(6) 15 February 1996
Italy	Fourth	31 December 1995	Not yet received	-
Jamaica	Second	1 August 1986	Not yet received	(18) 15 February 1996
	Third	1 August 1991	Not yet received	(9) 15 February 1996
Japan	Fourth	31 October 1996	Not yet due	-
Jordan	Fourth	22 January 1997	Not yet due	-
Kazakstan 13/				
Kenya	Second	11 April 1986	Not yet received	(20) 15 February 1996
	Third	11 April 1991	Not yet received	(10) 15 February 1996
	Fourth	11 April 1996	Not yet received	-
Kuwait	Initial	20 August 1997	Not yet due	-
Kyrgyzstan	Initial	6 January 1996	Not yet received	-
Latvia	Second	14 July 1998	Not yet due	-
Lebanon	Second	21 March 1986	6 June 1996	-
	Third	21 March 1988	Not yet received	(16) 15 February 1996
	Fourth	21 March 1993	Not yet received	(4) 15 February 1996
Lesotho	Initial	8 December 1993	Not yet received	(1) 29 June 1995
Lithuania	Initial	19 February 1993	16 April 1996	-
Libyan Arab Jamahiriya	Third 14/	31 December 1995	29 November 1995	-
Luxembourg	Third	17 November 1994	Not yet received	(2) 15 February 1996
Madagascar	Third 15/	31 July 1992	Not yet received	(7) 15 February 1996
	Fourth	3 August 1993	Not yet received	(5) 15 February 1996
Malawi	Initial	21 March 1995	Not yet received	(2) 15 February 1996
Mali	Second	11 April 1986	Not yet received	(20) 15 February 1996
	Third	11 April 1991	Not yet received	(10) 15 February 1996
	Fourth	11 April 1996	Not yet received	-
Malta	Second	12 December 1996	Not yet due	-
Mauritius	Third	18 July 1990	2 June 1995	-
	Fourth 16/	30 June 1998	Not yet due	-
Mexico	Fourth	22 June 1997	Not yet due	-
Moldova	Initial	25 April 1994	Not yet received	(3) 15 February 1996
Mongolia	Fourth	4 April 1995	Not yet received	(2) 15 February 1996
Morocco	Fourth	31 October 1996	Not yet due	-

States parties	Type of report	Date due	Date of submission	Date of last written reminder sent to States whose reports have not yet been submitted
Mozambique	Initial	20 October 1994	Not yet received	(3) 15 February 1996
Namibia	Initial	27 February 1996	Not yet received	-
Nepal	Second	13 August 1997	Not yet due	-
Netherlands	Third	31 October 1991	6 February 1995 17/	-
	Fourth	31 October 1996	Not yet due	-
New Zealand	Fourth	31 December 1996	Not yet due	-
Nicaragua	Third	11 June 1991	Not yet received	(9) 15 February 1996
	Fourth	11 June 1996	Not yet received	-
Niger	Second 18/	31 March 1994	Not yet received	(4) 15 February 1996
Nigeria	Initial	28 October 1994	2 February 1996 19/	-
Norway	Fourth	1 April 1997	Not yet due	-
Panama	Third 20/	31 March 1992	Not yet received	(8) 15 February 1996
	Fourth	6 June 1993	Not yet received	(5) 15 February 1996
Paraguay	Second	9 September 1998	Not yet due	-
Peru	Third	9 April 1993	24 October 1994	-
Philippines	Second	22 January 1993	Not yet received	(6) 15 February 1996
Poland	Fourth	27 October 1994	7 May 1996	-
Portugal	Third	1 August 1991	1 March 1996 21/	-
Republic of Korea	Second	9 July 1996	Not yet due	-
Romania	Fourth	31 December 1994	26 April 1996	-
Russian Federation	Fifth	4 November 1998	Not yet due	-
Rwanda	Third 22/	10 April 1992	Not yet received	(2) 15 February 1996
Saint Vincent and the Grenadines	Second 23/	31 October 1991	Not yet received	(9) 15 February 1996
	Third	8 February 1993	Not yet received	(6) 15 February 1996
San Marino	Second	17 January 1992	Not yet received	(8) 15 February 1996
Senegal	Fourth	4 April 1995	19 September 1995	-
Seychelles	Initial	4 August 1993	Not yet received	(4) 29 June 1995
Slovakia	Initial	31 December 1993	9 January 1996	-
Slovenia	Second	24 June 1997	Not yet due	-
Somalia	Initial	23 April 1991	Not yet received	(9) 15 February 1996
	Second	23 April 1996	Not yet received	-
Spain	Fourth	28 April 1994	2 June 1994	-
Sri Lanka	Fourth	10 September 1996	Not yet due	-
Sudan	Second	17 June 1992	Not yet received	(6) 15 February 1996
Suriname	Second	2 August 1985	Not yet received	(21) 15 February 1996
	Third	2 August 1990	Not yet received	(11) 15 February 1996
	Fourth	2 August 1995	Not yet received	(1) 15 February 1996
Sweden	Fifth	27 October 1999	Not yet due	-

States parties	Type of report	Date due	Date of submission	Date of last written reminder sent to States whose reports have not yet been submitted
Switzerland	Initial	17 September 1993	24 February 1995	-
Syrian Arab Republic	Second	18 August 1984	Not yet received	(24) 15 February 1996
	Third	18 August 1989	Not yet received	(13) 15 February 1996
	Fourth	18 August 1994	Not yet received	(3) 15 February 1996
Tajikistan 13/				
The former Yugoslav Republic of Macedonia	Initial	6 September 1992	Not yet received	(2) 15 February 1996
Togo	Third	31 December 1995	Not yet received	-
Trinidad and Tobago	Third	20 March 1990	Not yet received	(12) 15 February 1996
	Fourth	20 March 1995	Not yet received	(2) 15 February 1996
Tunisia	Fourth	4 February 1998	Not yet due	-
Turkmenistan 13/				
Uganda	Initial	20 September 1996	Not yet due	-
Ukraine	Fourth	18 August 1999	Not yet due	-
United Kingdom of Great Britain and Northern Ireland	Special	31 May 1996	3 June 1996 24/	-
	Fifth	18 August 1999	Not yet due	-
United Republic of Tanzania	Third 25/	31 December 1993	Not yet received	(4) 15 February 1996
	Fourth	11 April 1996	Not yet received	-
United States of America	Second	7 September 1998	Not yet due	-
Uruguay	Fourth	31 December 1994	Not yet received	(2) 15 February 1996
Uzbekistan	Initial	27 December 1996	Not yet due	-
Venezuela	Third 26/	31 December 1993	Not yet received	(4) 15 February 1996
	Fourth	1 November 1995	Not yet received	(1) 15 February 1996
Viet Nam	Second 27/	31 July 1991	Not yet received	(8) 29 June 1995
	Third	23 December 1993	Not yet received	(3) 29 June 1995
Yemen	Third	8 May 1998	Not yet due	-
Yugoslavia	Fourth	3 August 1993	Not yet received	(5) 15 February 1996
Zaire	Third 28/	31 July 1991	Not yet received	(9) 15 February 1996
Zambia	Second	9 July 1990	27 January 1995	-
	Third 29/	30 June 1998	Not yet due	-
Zimbabwe	Initial	12 August 1992	Not yet received	(7) 15 February 1996

Notes

1/ From 30 July 1995 to 26 July 1996 (end of the fifty-seventh session).

2/ At its fifty-fifth session, the Committee requested the Government of Afghanistan to submit information updating the report before 31 May 1996 for consideration at its fifty-seventh session.

3/ Pursuant to a Committee decision of 29 October 1993 (forty-ninth session), Angola was requested to submit a report relating to recent and current events affecting the implementation of the Covenant in the country for consideration at the fiftieth session.

4/ At its thirty-sixth session (914th meeting), the Committee decided to extend the deadline for the submission of the second periodic report of Bolivia from 11 November 1988 to 13 July 1990.

5/ At its forty-eighth session (1258th meeting), the Committee decided to extend the deadline for the submission of the third periodic report of Bulgaria from 28 April 1989 to 31 December 1994.

6/ At its thirty-second session (794th meeting), the Committee decided to extend the deadline for the submission of the second periodic report of the Central African Republic from 7 August 1987 to 9 April 1989.

7/ At its fifty-first session (1335th meeting), the Committee decided to extend the deadline for the submission of the third period report of Cyprus from 18 August 1989 to 31 December 1994.

8/ Pursuant to a Committee decision taken at its fiftieth session (1319th meeting), the new date for the submission of the third period report of El Salvador is 31 December 1995.

9/ At its forty-eighth session (1258th meeting), the Committee decided to extend the deadline for the submission of the third period report of Egypt from 13 April 1993 to 31 December 1994.

10/ Pursuant to a Committee decision taken at its 1415th meeting (fifty-third session), at the end of the consideration of a report of Haiti submitted pursuant to a special decision, the new date for the submission of the initial report of Haiti is 31 December 1996.

11/ At its forty-first session (1062nd meeting), the Committee decided to extend the deadline for the submission of the third periodic report of India from 9 July 1990 to 31 March 1992.

12/ At its forty-eighth session (1258th meeting), the Committee decided to extend the deadline for the submission of the third period report of the Islamic Republic of Iran from 21 March 1988 to 31 December 1994.

13/ In notes verbales dated 28 May 1993, the Committee requested these States to submit their reports under article 40 of the Covenant. See also relevant notes in annex I to the present report.

14/ Pursuant to a Committee decision taken at its fifty-second session (1386th meeting), the new date for the submission of the third periodic report of the Libyan Arab Jamahiriya has been extended from 4 February 1988 to 31 December 1995.

15/ At its forty-third session (1112th meeting), the Committee decided to extend the deadline for the submission of the third periodic report of Madagascar from 3 August 1988 to 31 July 1992.

16/ At its fifty-sixth session (1500th meeting), the Committee decided to extend the deadline for the consideration of the fourth periodic report of Mauritius from 4 November 1993 to 30 June 1998.

17/ The Government of the Netherlands has informed the Secretariat that a new report would be submitted shortly.

18/ At its forty-seventh session (1215th meeting), the Committee decided to extend the deadline for the submission of the second periodic report of Niger from 6 June 1992 to 31 March 1994.

19/ The initial report of Nigeria was submitted pursuant to a special decision (see paras. 254-305).

20/ At its forty-first session (1062nd meeting), the Committee decided to extend the deadline for the submission of the third periodic report of Panama from 6 June 1988 to 31 March 1992.

21/ On 1 March 1996, the Secretariat received the part of the third periodic report relating to Macau.

22/ Pursuant to a Committee decision of 29 October 1994 (fifty-first session), Rwanda was requested to submit a report relating to recent and current events affecting the implementation of the Covenant in the country for consideration at the fifty-second session.

23/ At its thirty-eighth session (973rd meeting), the Committee decided to extend the deadline for the submission of the second periodic report of Saint Vincent and the Grenadines from 8 February 1988 to 31 October 1991.

24/ At the end of the consideration of the part of the report relating to Hong Kong, a special report was requested for 31 May 1996 for consideration at the fifty-eight session.

25/ At its forty-sixth session (1205th meeting), the Committee decided to extend the deadline for the submission of the third periodic report of the United Republic of Tanzania from 11 April 1991 to 31 December 1993.

26/ At its forty-sixth session (1205th meeting), the Committee decided to extend the deadline for the submission of the third periodic report of Venezuela from 1 November 1991 to 31 December 1993.

27/ At its thirty-ninth session (1003rd meeting), the Committee decided to extend the deadline for the submission of the second periodic report of Viet Nam from 23 December 1988 to 31 July 1991.

28/ At its thirty-ninth session (1003rd meeting), the Committee decided to extend the deadline for the submission of the third periodic report of Zaire from 30 January 1988 to 31 July 1991.

29/ At its fifty-sixth session (1500th meeting), the Committee decided to extend the deadline for the consideration of the third periodic report of Zambia from 9 July 1995 to 30 June 1998.

ANNEX IV

Status of reports considered during the period under review and of reports still pending before the Committee

States parties	Date due	Date of submission	Meetings at which considered
A. Initial report			
Brazil	23 April 1993	17 November 1994	1506th to 1508th (fifty-seventh session)
Estonia	20 January 1993	27 September 1994	1455th and 1459th (fifty-fifth session)
Gabon	20 April 1984	16 November 1995	Not yet considered
Georgia	2 August 1995	21 November 1995	Not yet considered
Guatemala	4 August 1993	7 December 1994	1486th, 1488th and 1489th (fifty-sixth session)
Lithuania	19 February 1993	16 April 1996	Not yet considered
Slovakia	31 December 1993	9 January 1996	Not yet considered
Switzerland	17 September 1993	24 February 1995	Not yet considered
B. Second periodic report			
Bolivia	13 July 1990	20 March 1996	Not yet considered
Congo	4 January 1990	9 July 1996	Not yet considered
Lebanon	21 March 1986	6 June 1996	Not yet considered
Zambia	9 July 1990	27 January 1995	1487th, 1488th and 1489th (fifty-sixth session)
C. Third periodic report			
Cyprus	31 December 1994	28 December 1994	Not yet considered
Denmark	1 November 1990	7 April 1995	Not yet considered
France	3 February 1992	15 March 1996	Not yet considered
Iceland	31 December 1994	23 March 1995	Not yet considered
India	31 March 1992	29 November 1995	Not yet considered
Libyan Arab Jamahiriya	31 December 1995	29 November 1995	Not yet considered
Mauritius	18 July 1990	2 June 1995	1476th, 1477th and 1478th (fifty-sixth session)
Peru	9 April 1993	24 October 1994	1519th to 1521st (fifty-seventh session)
Portugal	1 August 1991	1 March 1996	Not yet considered

States parties	Date due	Date of submission	Meetings at which considered
D. Fourth periodic report			
Belarus	4 November 1993	11 April 1995	Not yet considered
Colombia	2 August 1995	9 July 1996	Not yet considered
Finland	18 August 1994	10 August 1995	Not yet considered
Germany	3 August 1993	12 September 1995	Not yet considered
Iraq	4 April 1995	5 February 1996	Not yet considered
Poland	27 October 1994	7 May 1996	Not yet considered
Romania	31 December 1994	26 April 1996	Not yet considered
Senegal	4 April 1995	19 September 1995	Not yet considered
Spain	28 April 1994	2 June 1994	1479th, 1480th and 1481st (fifty-sixth session)
Sweden	27 October 1994	27 October 1994	1456th and 1457th (fifty-fifth session)
E. Reports submitted pursuant to a special decision taken by the Committee			
Nigeria a/	-	7 February 1995	1494th and 1495th and 1526th and 1527th (fifty-sixth and fifty-seventh sessions)
United Kingdom of Great Britain and Northern Ireland b/ - Hong Kong	31 May 1996	31 May 1996	Not yet considered
F. Additional information submitted subsequent to the examination of initial reports by the Committee c/			
Gambia	-	5 June 1984	Not yet considered
Kenya	-	4 May 1982	Not yet considered

Notes

a/ See paras. 254-305 of the present report.

b/ See paras. 47-72 of the present report.

c/ At its twenty-fifth session (601st meeting), the Committee decided to consider additional information submitted subsequent to the examination of initial reports together with the State party's second periodic report.

ANNEX V

General Comments under article 40, paragraph 4, of the International Covenant on Civil and Political Rights

General Comment No. 25 (57) b/, c/

1. Article 25 of the Covenant recognizes and protects the right of every citizen to take part in the conduct of public affairs, the right to vote and to be elected and the right to have access to public service. Whatever form of constitution or government is in force, the Covenant requires States to adopt such legislative and other measures as may be necessary to ensure that citizens have an effective opportunity to enjoy the rights it protects. Article 25 lies at the core of democratic government based on the consent of the people and in conformity with the principles of the Covenant.

2. The rights under article 25 are related to, but distinct from, the right of peoples to self-determination. By virtue of the rights covered by article 1 (1), peoples have the right to freely determine their political status and to enjoy the right to choose the form of their constitution or government. Article 25 deals with the right of individuals to participate in those processes which constitute the conduct of public affairs. Those rights, as individual rights, can give rise to claims under the first Optional Protocol.

3. In contrast with other rights and freedoms recognized by the Covenant (which are ensured to all individuals within the territory and subject to the jurisdiction of the State), article 25 protects the rights of "every citizen". State reports should outline the legal provisions which define citizenship in the context of the rights protected by article 25. No distinctions are permitted between citizens in the enjoyment of these rights on the grounds of race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. Distinctions between those who are entitled to citizenship by birth and those who acquire it by naturalization may raise questions of compatibility with article 25. State reports should indicate whether any groups, such as permanent residents, enjoy these rights on a limited basis, for example, by having the right to vote in local elections or to hold particular public service positions.

4. Any conditions which apply to the exercise of the rights protected by article 25 should be based on objective and reasonable criteria. For example, it may be reasonable to require a higher age for election or appointment to particular offices than for exercising the right to vote, which should be available to every adult citizen. The exercise of these rights by citizens may not be suspended or excluded except on grounds which are established by law and which are objective and reasonable. For example, established mental incapacity may be a ground for denying a person the right to vote or to hold office.

5. The conduct of public affairs, referred to in paragraph (a), is a broad concept which relates to the exercise of political power, in particular the exercise of legislative, executive and administrative powers. It covers all aspects of public administration, and the formulation and implementation of policy at international, national, regional and local levels. The allocation of powers and the means by which individual citizens exercise the right to participate in the conduct of public affairs protected by article 25 should be established by the constitution and other laws.

6. Citizens participate directly in the conduct of public affairs when they exercise power as members of legislative bodies or by holding executive office. This right of direct participation is supported by paragraph (b). Citizens also participate directly in the conduct of public affairs when they choose or change their constitution or decide public issues through a referendum or other electoral process conducted in accordance with paragraph (b). Citizens may participate directly by taking part in popular assemblies which have the power to make decisions about local issues or about the affairs of a particular community and in bodies established to represent citizens in consultation with government. Where a mode of direct participation by citizens is established, no distinction should be made between citizens as regards their participation on the grounds mentioned in article 2, paragraph 1, and no unreasonable restrictions should be imposed.

7. Where citizens participate in the conduct of public affairs through freely chosen representatives, it is implicit in article 25 that those representatives do in fact exercise governmental power and that they are accountable through the electoral process for their exercise of that power. It is also implicit that the representatives exercise only those powers which are allocated to them in accordance with constitutional provisions. Participation through freely chosen representatives is exercised through voting processes which must be established by laws that are in accordance with paragraph (b).

8. Citizens also take part in the conduct of public affairs by exerting influence through public debate and dialogue with their representatives or through their capacity to organize themselves. This participation is supported by ensuring freedom of expression, assembly and association.

9. Paragraph (b) of article 25 sets out specific provisions dealing with the right of citizens to take part in the conduct of public affairs as voters or as candidates for election. Genuine periodic elections in accordance with paragraph (b) are essential to ensure the accountability of representatives for the exercise of the legislative or executive powers vested in them. Such elections must be held at intervals which are not unduly long and which ensure that the authority of government continues to be based on the free expression of the will of electors. The rights and obligations provided for in paragraph (b) should be guaranteed by law.

10. The right to vote at elections and referenda must be established by law and may be subject only to reasonable restrictions, such as setting a minimum age limit for the right to vote. It is unreasonable to restrict the right to vote on the ground of physical disability or to impose literacy, educational or property requirements. Party membership should not be a condition of eligibility to vote, nor a ground of disqualification.

11. States must take effective measures to ensure that all persons entitled to vote are able to exercise that right. Where registration of voters is required, it should be facilitated and obstacles to such registration should not be imposed. If residence requirements apply to registration, they must be reasonable, and should not be imposed in such a way as to exclude the homeless from the right to vote. Any abusive interference with registration or voting as well as intimidation or coercion of voters should be prohibited by penal laws and those laws should be strictly enforced. Voter education and registration campaigns are necessary to ensure the effective exercise of article 25 rights by an informed community.

12. Freedom of expression, assembly and association are essential conditions for the effective exercise of the right to vote and must be fully protected. Positive measures should be taken to overcome specific difficulties, such as illiteracy, language barriers, poverty, or impediments to freedom of movement which prevent persons entitled to vote from exercising their rights effectively. Information and materials about voting should be available in minority languages. Specific methods, such as photographs and symbols, should be adopted to ensure that illiterate voters have adequate information on which to base their choice. States parties should indicate in their reports the manner in which the difficulties highlighted in this paragraph are dealt with.

13. State reports should describe the rules governing the right to vote, and the application of those rules in the period covered by the report. State reports should also describe factors which impede citizens from exercising the right to vote and the positive measures which have been adopted to overcome these factors.

14. In their reports, States parties should indicate and explain the legislative provisions which would deprive citizens of their right to vote. The grounds for such deprivation should be objective and reasonable. If conviction for an offence is a basis for suspending the right to vote, the period of such suspension should be proportionate to the offence and the sentence. Persons who are deprived of liberty but who have not been convicted should not be excluded from exercising the right to vote.

15. The effective implementation of the right and the opportunity to stand for elective office ensures that persons entitled to vote have a free choice of candidates. Any restrictions on the right to stand for election, such as minimum age, must be justifiable on objective and reasonable criteria. Persons who are otherwise eligible to stand for election should not be excluded by unreasonable or discriminatory requirements such as education, residence or descent, or by reason of political affiliation. No person should suffer discrimination or disadvantage of any kind because of that person's candidacy. States parties should indicate and explain the legislative provisions which exclude any group or category of persons from elective office.

16. Conditions relating to nomination dates, fees or deposits should be reasonable and not discriminatory. If there are reasonable grounds for regarding certain elective offices as incompatible with tenure of specific positions (e.g. the judiciary, high-ranking military office, public service), measures to avoid any conflicts of interest should not unduly limit the rights protected by paragraph (b). The grounds for the removal of elected office holders should be established by laws based on objective and reasonable criteria and incorporating fair procedures.

17. The right of persons to stand for election should not be limited unreasonably by requiring candidates to be members of parties or of specific parties. If a candidate is required to have a minimum number of supporters for nomination this requirement should be reasonable and not act as a barrier to candidacy. Without prejudice to paragraph (1) of article 5 of the Covenant, political opinion may not be used as a ground to deprive any person of the right to stand for election.

18. State reports should describe the legal provisions which establish the conditions for holding elective public office, and any limitations and qualifications which apply to particular offices. Reports should describe conditions for nomination, e.g. age limits, and any other qualifications or

restrictions. State reports should indicate whether there are restrictions which preclude persons in public-service positions (including positions in the police or armed services) from being elected to particular public offices. The legal grounds and procedures for the removal of elected office holders should be described.

19. In conformity with paragraph (b), elections must be conducted fairly and freely on a periodic basis within a framework of laws guaranteeing the effective exercise of voting rights. Persons entitled to vote must be free to vote for any candidate for election and for or against any proposal submitted to referendum or plebiscite, and free to support or to oppose government, without undue influence or coercion of any kind which may distort or inhibit the free expression of the elector's will. Voters should be able to form opinions independently, free of violence or threat of violence, compulsion, inducement or manipulative interference of any kind. Reasonable limitations on campaign expenditure may be justified where this is necessary to ensure that the free choice of voters is not undermined or the democratic process distorted by the disproportionate expenditure on behalf of any candidate or party. The results of genuine elections should be respected and implemented.

20. An independent electoral authority should be established to supervise the electoral process and to ensure that it is conducted fairly, impartially and in accordance with established laws which are compatible with the Covenant. States should take measures to guarantee the requirement of the secrecy of the vote during elections, including absentee voting, where such a system exists. This implies that voters should be protected from any form of coercion or compulsion to disclose how they intend to vote or how they voted, and from any unlawful or arbitrary interference with the voting process. Waiver of these rights is incompatible with article 25 of the Covenant. The security of ballot boxes must be guaranteed and votes should be counted in the presence of the candidates or their agents. There should be independent scrutiny of the voting and counting process and access to judicial review or other equivalent process so that electors have confidence in the security of the ballot and the counting of the votes. Assistance provided to the disabled, blind or illiterate should be independent. Electors should be fully informed of these guarantees.

21. Although the Covenant does not impose any particular electoral system, any system operating in a State party must be compatible with the rights protected by article 25 and must guarantee and give effect to the free expression of the will of the electors. The principle of one person, one vote, must apply, and within the framework of each State's electoral system, the vote of one elector should be equal to the vote of another. The drawing of electoral boundaries and the method of allocating votes should not distort the distribution of voters or discriminate against any group and should not exclude or restrict unreasonably the right of citizens to choose their representatives freely.

22. State reports should indicate what measures they have adopted to guarantee genuine, free and periodic elections and how their electoral system or systems guarantee and give effect to the free expression of the will of the electors. Reports should describe the electoral system and explain how the different political views in the community are represented in elected bodies. Reports should also describe the laws and procedures which ensure that the right to vote can in fact be freely exercised by all citizens and indicate how the secrecy, security and validity of the voting process are guaranteed by law. The practical implementation of these guarantees in the period covered by the report should be explained.

23. Subparagraph (c) of article 25 deals with the right and the opportunity of citizens to have access on general terms of equality to public service positions. To ensure access on general terms of equality, the criteria and processes for appointment, promotion, suspension and dismissal must be objective and reasonable. Affirmative measures may be taken in appropriate cases to ensure that there is equal access to public service for all citizens. Basing access to public service on equal opportunity and general principles of merit, and providing secured tenure, ensures that persons holding public service positions are free from political interference or pressures. It is of particular importance to ensure that persons do not suffer discrimination in the exercise of their rights under article 25, subparagraph (c), on any of the grounds set out in article 2, paragraph 1.

24. State reports should describe the conditions for access to public service positions, any restrictions which apply and the processes for appointment, promotion, suspension and dismissal or removal from office as well as the judicial or other review mechanisms which apply to these processes. Reports should also indicate how the requirement for equal access is met, and whether affirmative measures have been introduced and, if so, to what extent.

25. In order to ensure the full enjoyment of rights protected by article 25, the free communication of information and ideas about public and political issues between citizens, candidates and elected representatives is essential. This implies a free press and other media able to comment on public issues without censorship or restraint and to inform public opinion. It requires the full enjoyment and respect for the rights guaranteed in articles 19, 21 and 22 of the Covenant, including freedom to engage in political activity individually or through political parties and other organizations, freedom to debate public affairs, to hold peaceful demonstrations and meetings, to criticize and oppose, to publish political material, to campaign for election and to advertise political ideas.

26. The right to freedom of association, including the right to form and join organizations and associations concerned with political and public affairs, is an essential adjunct to the rights protected by article 25. Political parties and membership in parties play a significant role in the conduct of public affairs and the election process. States should ensure that, in their internal management, political parties respect the applicable provisions of article 25 in order to enable citizens to exercise their rights thereunder.

27. Having regard to the provision of article 5, paragraph 1, of the Covenant, any rights recognized and protected by article 25 may not be interpreted as implying a right to act or as validating any act aimed at the destruction or limitation of the rights and freedoms protected by the Covenant to a greater extent than what is provided for in the present Covenant.

Notes

a/ For the nature and purpose of the general comments, see Official Records of the General Assembly, Thirty-sixth Session, Supplement No. 40 (A/36/40), annex VII, introduction. For a description of the history of the method of work, the elaboration of general comments and their use, ibid., Thirty-ninth Session, Supplement No. 40 (A/39/40 and Corr.1 and 2), paras. 541-557. For the text of the general comments already adopted by the Committee, ibid., Thirty-sixth Session, Supplement No. 40 (A/36/40), annex VII; ibid., Thirty-seventh Session, Supplement No. 40 (A/37/40), annex V; ibid., _Thirty-eighth Session, Supplement No. 40_ (A/38/40), annex VI; ibid., _Thirty-ninth Session, Supplement No. 40_ (A/39/40 and Corr.1 and 2), annex VI; ibid., _Fortieth Session, Supplement No. 40_ (A/40/40), annex VI; ibid., _Forty-first Session, Supplement No. 40_ (A/41/40), annex VI; ibid., _Forty-third Session, Supplement No. 40_ (A/43/40), annex VI; ibid., _Forty-fourth Session, Supplement No. 40_ (A/44/40), annex VI; ibid., _Forty-fifth Session, Supplement No. 40_ (A/45/40), annex VI; ibid., _Forty-seventh Session, Supplement No. 40_ (A/47/40), annex VI; ibid., _Forty-ninth Session, Supplement No. 40_ (A/49/40), annex V; and ibid., _Fiftieth Session, Supplement No. 40_ (A/45/40), annex V. Also issued in documents CCPR/C/21/Rev.1 and Rev.1/Add.1-7.

_b_/ Adopted by the Committee at its 1510th meeting (fifty-seventh session) on 12 July 1996.

_c_/ The number in parenthesis indicates the session at which the general comment was adopted.

ANNEX VI

Observations of States parties under article 40, paragraph 5, of the Covenant

France a/

1. On 11 November 1994, the Human Rights Committee adopted General Comment No. 24 (52) on issues relating to reservations made upon ratification or accession to the Covenant or the Optional Protocols thereto, or in relation to declarations under article 41 of the Covenant.

This document has been the subject of observations and comments by the United Kingdom and the United States. France shares the concern expressed about some of the opinions contained in General Comment No. 24 (52), which in its view do not correspond to generally recognized rules of international law. It would like to make some specific observations on a number of points.

2. Paragraph 8

Paragraph 8 is drafted in such a way as to link the two distinct legal concepts of "peremptory norms" and "rules of customary international law", to the point of confusing them.

The draft states, "Reservations that offend peremptory norms would not be compatible with the object and purpose of the Covenant ... Accordingly, provisions in the Covenant that represent customary international law (and a fortiori when they have the character of peremptory norms) may not be the subject of reservations ..."

In order to dispel any risk of confusion, France would like to raise the following points:

International custom is proof that a general practice has been accepted as law. It must be acknowledged that it is difficult - however regrettable that may be - to identify practices in the human rights area that fit this definition exactly. It would be premature, to say the least, to claim that all the examples cited in the report fit the definition of international custom cited above.

Although it may be accepted that certain human rights treaties formalize customary principles, this does not mean that the State's duty to observe a general customary principle should be confused with its agreement to be bound by the expression of that principle in a treaty, especially with the developments and clarifications that such formalization involves.

Finally, it goes without saying that the customary rule concept can in no way be equated with a peremptory norm of international law. The position of France, which is not a party to the 1969 Vienna Convention on the Law of Treaties, as regards "jus cogens", is well known. The uncertainties associated with this concept, which France indicated from the outset, should not compound those surrounding the role of custom in human rights matters.

3. Paragraph 10

France believes that it is necessary to point out that certain reservations are a sine qua non for ensuring compatibility between treaty norms and constitutional norms. Generally speaking, as regards the general rules of the law of treaties, the validity of reservations can be evaluated only with respect to the purpose and object of the treaties, there being no need to refer to more subjective considerations.

4. Paragraph 13

France would like to point out that the first Protocol is, on the one hand, of an optional nature, and on the other, separate from the Covenant. That being the case, nothing in international law appears necessarily to prohibit a State from qualifying or restricting its acceptance of the Protocol.

Any maximalist interpretations would result in discouraging new States from acceding to the Optional Protocol.

5. Paragraph 16

The last two sentences of the paragraph do not correspond exactly to the provisions of article 21 of the 1969 Vienna Convention, which reads as follows:

> "Article 21: Legal effects of reservations and of objections to reservations
>
> 1. A reservation established with regard to another party in accordance with articles 19, 20 and 23:
>
> (a) Modifies for the reserving State in its relations with that other party the provisions of the treaty to which the reservation relates to the extent of the reservation; and
>
> (b) Modifies those provisions to the same extent for that other party in its relations with the reserving State.
>
> 2. The reservation does not modify the provisions of the treaty for the other parties to the treaty inter se.
>
> 3. When a State objecting to a reservation has not opposed the entry into force of the treaty between itself and the reserving State, the provisions to which the reservation relates do not apply as between the two States to the extent of the reservation."

6. Paragraph 17

France is unable to endorse the opinion in the document to the effect that "[the] provisions [of the 1969 Vienna Convention] on the role of State objections in relation to reservations are inappropriate to address the problem of reservations to human rights treaties".

This opinion is based on the idea, not confirmed by any generally accepted rule of international law, that rules different from those of the conventional law of treaties apply or should apply to human rights treaties. It is also based on the unjustified assumption that States parties would not use their right to object to reservations with the appropriate discernment or care.

7. Paragraph 18

France rejects this entire analysis and considers the last sentence ("such a reservation will generally be severable, in the sense that the Covenant will be operative for the reserving party without benefit of the reservation") to be incompatible with the law of treaties.

France believes it should be noted that agreements, whatever their nature, are governed by the law of treaties, that they are based on States' consent and that reservations are conditions which States attach to that consent; it necessarily follows that if these reservations are deemed incompatible with the purpose and object of the treaty, the only course open is to declare that this consent is not valid and decide that these States cannot be considered parties to the instrument in question.

As for the opinion that the Committee is particularly well placed to take decisions on the compatibility of a reservation with the object and purpose of the Covenant, France points out that the Committee, like any other treaty body or similar body established by agreement, owes its existence exclusively to the treaty, and has no powers other than those conferred on it by the States parties; it is therefore for the latter, and for them alone, unless the treaty states otherwise, to decide whether a reservation is incompatible with the object and purpose of the treaty.

8. Paragraph 20

France considers reservations, as governed by the 1969 Vienna Convention, to represent a normal and legitimate means of formulating a State's consent to be bound by a treaty, if exercised under the conditions provided for in the treaty itself.

A State that has conditioned its consent on reservations in conformity with international law therefore has no reason to submit to other conditions, constraints or procedures than those deriving from the law of treaties or the instrument in question. Not all reservations are unjustified and not all should necessarily be lifted. Reservations to human rights instruments are not by definition contrary to the object and purpose of the treaty. By making compatibility between constitutional norms and treaty norms possible and by allowing the adaptation of treaty norms and certain domestic legislation to reflect the special characteristics of each State, they foster wide acceptance by the international community of a number of treaties that would never have obtained sufficient accessions otherwise.

Notes

a/ Observations transmitted by letter dated 8 September 1995.

ANNEX VII

List of States parties' delegations that participated in the consideration of their respective reports by the Human Rights Committee at its fifty-fifth, fifty-sixth and fifty-seventh sessions

UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND (HONG KONG)	Representative	Mr. Henry Steel CMG Foreign and Commonwealth Office London
	Adviser	Mr. Daniel R. Fung QC Solicitor General Hong Kong Government
		Mr. Stephen Wong Kai-yi Principal Crown Counsel Hong Kong Government
		Mr. Ian Deane Senior Assistant, Solicitor General Hong Kong Government
		Mr. Jeremy Croft Principal Assistant Secretary for Home Affairs Hong Kong Government
		Mr. Gordon Leung Chug-Tai Principal Assistant Secretary for Security Hong Kong Government
		Mr. Joseph Cheung Sai-Cheong Principal Information Officer Hong Kong Government
		Ms. Sarah Foulds Permanent Mission of the United Kingdom to the United Nations Office at Geneva
		Ms. Emer Doherty Permanent Mission of the United Kingdom to the United Nations Office at Geneva
		Mr. Mark Booth Permanent Mission of the United Kingdom to the United Nations Office at Geneva
SWEDEN	Representative	Mr. Lars Magnuson Under-Secretary for Legal Affairs Ministry for Foreign Affairs
	Adviser	Mr. Erik Lempert Permanent Under-Secretary Ministry of Culture

		Ms. Inger Kalmerborn Associate Judge of Appeal Ministry of Justice
		Ms. Eva Hammar Associate Judge Administrative Court of Appeal Ministry of Health and Social Affairs
		Ms. Mona Danielsson Assistant Under-Secretary Ministry of Health and Social Affairs
		Ms. Anne Dismorr Counsellor, Deputy Permanent Representative Permanent Mission of Sweden to the United Nations Office at Geneva
		Mrs. Erika Hagerüd First Secretary Ministry of Foreign Affairs
ESTONIA	*Representative*	Mr. Rait Maruste Chief Justice National Court
	Adviser	Mrs. Aino Lepik Head of the Human Rights Division Ministry of Foreign Affairs
		Mrs. Mai Hion Lawyer Law firm "Lõhmus and Teeveer"
		Mrs. Mari-Ann Kelam Press Spokesman Ministry of Foreign Affairs
		Mr. Sven Jürgenson Deputy Political Director Ministry of Foreign Affairs
		Mr. Olavi Israel Legal Counsellor Ministry of Justice
MAURITIUS	*Representative*	Mr. A. R. Mohamed Ameen Peeroo Minister of Justice
	Adviser	Mr. M. D. Seetulsing Ministry of Justice
		Mr. S. Soborun Chargé d'affaires Permanent Mission of Mauritius to the United Nations
SPAIN	*Representative*	Sr. Juan Luis Ibarra Director General de Codificación y Cooperación Jurídica Internacional Ministerio de Justicia e Interior

	Adviser	Sr. Juan Zurita Subdirector General Director de la Officina de Derechos Humanos Ministerio de Asuntos Exteriores
		Sr. Javier Borrego Abogado del Estado Jefe del Servicio Juridico para la Comisión Europea y Tribunal Europeo de Derechos Humanos Ministerio de Justicia e Interior
		Sr. Alvaro Rodriguez Secretario de Embajada Permanent Mission of Spain to the United Nations
GUATEMALA	Representative	Lic. Vincente Arranz Sanz President of COPREDEH
	Adviser	Lic. Dennis Alonzo Mazariegos Executive Director of COPREDEH
		Sr. Francisco A. Noguera Counsellor, Permanent Mission of Guatemala to the United Nations
ZAMBIA	Representative	H.E. P. L. Kasanda Ambassador, Permanent Representative Permanent Mission of Zambia to the United Nations
	Alternate representative	Mr. H. Kunda Deputy Permanent Representative Permanent Mission of Zambia to the United Nations
		Mrs. Mwila Chigaga Counsellor Permanent Mission of Zambia to the United Nations
	Adviser	Ms. Annie Kazhingu Second Secretary Permanent Mission of Zambia to the United Nations Office at Geneva
NIGERIA (Fifty-sixth session)	Representative	Prof. I. A. Gambari Permanent Representative Permanent Mission of the Federal Republic of Nigeria to the United Nations Office at Geneva
	Adviser	Dr. A. H. Yadudu Legal Adviser to the President of the Federal Republic of Nigeria

		Mr. I. Ayewah Deputy Permanent Representative Permanent Mission of the Federal Republic of Nigeria to the United Nations Office at Geneva
		Mr. Sam A. Otuyelu Minister Permanent Mission of the Federal Republic of Nigeria to the United Nations Office at Geneva
		Mr. A. Rindap Deputy Assistant Director-General
		Mr. C. Chiejina First Secretary Permanent Mission of the Federal Republic of Nigeria to the United Nations Office at Geneva
NIGERIA (Fifty-seventh session)	Representative	Dr. A. H. Yadudu Special Adviser (Legal Affairs) The Presidency
	Alternate representative	Mr. Bukar Usman Director-General The Presidency
	Adviser	H.E. Mr. E. Abuah Ambassador, Permanent Representative Permanent Mission of the Federal Republic of Nigeria to the United Nations Office at Geneva
		Mr. Abidina Coomassie Managing Director Today Newspaper
		Dr. A. A. Rasheed Managing Director New Nigerian
		Mr. K. A. Mohammed The Presidency
		Justice P. K. Nwokedi Chairman National Human Rights Commission
		Dr. Mohammed Tabiu Secretary National Human Rights Commission
		Mr. Jalal A. Al-Arabi Office of the Secretary to the Government of the Federation of Nigeria
		Mr. Ray Ekpu Member National Human Rights Commission

		Mr. H. O. Sulaiman Member National Human Rights Commission
		Mrs. F. Kwaku Member National Human Rights Commission
BRAZIL	Representative	H.E. Mr. Gilberto Vergne Saboia Ambassador Deputy Permanent Representative of Brazil to the United Nations Office at Geneva
	Alternate representative	H.E. Mr. José Gregori Head of Cabinet of the Minister of Justice
	Adviser	Mr. Antonio Luis Espinola Salgado First Secretary Permanent Mission of Brazil to the United Nations
		Ms. Maria Helena Pinheiro Penna First Secretary Permanent Mission of Brazil to the United Nations
		Mr. Antonio Otávio Sá Ricarte Second Secretary Permanent Mission of Brazil to the United Nations
PERU	Representative	Embajador José Urrutia Permanent Representative of Peru to the United Nations
	Alternate representative	Consejero Antonio García Permanent Mission of Peru to the United Nations
	Adviser	Sr. Luis-Enrique Chávez First Secretary Permanent Mission of Peru to the United Nations
		Sr. Eduardo Pérez del Solar Second Secretary Permanent Mission of Peru to the United Nations
		Dr. Alejandro Alvarez-Pedrosa Consultant to the delegation

ANNEXES VIII and IX (see "Contents") will be issued subsequently in *Official records of the General Assembly, Fifty-first Session, Supplement No. 40* (A/51/40), vol. II.

ANNEX X

List of documents issued during the reporting period

Reports of States parties

CCPR/C/63/Add.3	Second period report of Zambia
CCPR/C/64/Add.11	Third periodic report of Denmark
CCPR/C/64/Add.12	Third periodic report of Mauritius
CCPR/C/70/Add.8	Additional information from Sri Lanka
CCPR/C/81/Add.8	Initial report of Switzerland
CCPR/C/84/Add.4	Fourth periodic report of Belarus
CCPR/C/84/Add.5	Fourth periodic report of Germany
CCPR/C/92/Add.1	Initial report of Nigeria
CCPR/C/94/Add.1	Third period report of Cyprus
CCPR/C/94/Add.2	Third periodic report of Iceland
CCPR/C/95/Add.5	Fourth periodic report of the United Kingdom of Great Britain and Northern Ireland - Hong Kong
CCPR/C/95/Add.6	Fourth periodic report of Finland
CCPR/C/103/Add.1	Fourth periodic report of Senegal

Concluding observations of the Human Rights Committee on States parties' reports

CCPR/C/79/Add.57	Concluding observations of the Human Rights Committee on States parties' reports - Hong Kong
CCPR/C/79/Add.58	Concluding observations of the Human Rights Committee on States parties' reports - Sweden
CCPR/C/79/Add.59	Concluding observations of the Human Rights Committee on States parties' reports - Estonia
CCPR/C/79/Add.60	Concluding observations of the Human Rights Committee on States parties' reports - Mauritius
CCPR/C/79/Add.61	Concluding observations of the Human Rights Committee on States parties' reports - Spain
CCPR/C/79/Add.62	Concluding observations of the Human Rights Committee on States parties' reports - Zambia

CCPR/C/79/Add.63	Concluding observations of the Human Rights Committee on States parties' reports - Guatemala
CCPR/C/79/Add.64	Preliminary observations of the Human Rights Committee on States parties' reports - Nigeria
CCPR/C/79/Add.65	Concluding observations of the Human Rights Committee on States parties' reports - Nigeria
CCPR/C/79/Add.66	Concluding observations of the Human Rights Committee on States parties' reports - Brazil
CCPR/C/79/Add.67	Preliminary observations of the Human Rights Committee on States parties' reports - Peru

Provisional agendas and annotations

CCPR/C/110	Provisional agenda and annotations (fifty-fifth session)
CCPR/C/111	Provisional agenda and annotations (fifty-sixth session)
CCPR/C/112	Provisional agenda and annotations (fifty-seventh session)

Notes concerning the consideration of reports submitted by States parties

CCPR/C/113	Consideration of initial reports submitted by States parties under article 40 of the Covenant due in 1996: note by the Secretary-General
CCPR/C/114	Consideration of second periodic reports submitted by States parties under article 40 of the Covenant due in 1996: note by the Secretary-General
CCPR/C/115	Consideration of fourth periodic reports submitted by States parties under article 40 of the Covenant due in 1996: note by the Secretary-General

Summary records of Committee discussions

CCPR/C/SR.1445-1473	Summary records of the fifty-fifth session
CCPR/C/SR.1474-1501	Summary records of the fifty-sixth session
CCPR/C/SR.1502-1530	Summary records of the fifty-seventh session

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